

**REQUEST FOR PROPOSALS FOR PROFESSIONAL SERVICES**  
**Content Filtering & Student Safety RFP**  
**ISSUED BY DELAWARE DEPARTMENT OF EDUCATION**  
**CONTRACT NUMBER 2021-01**

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**I. Overview**

The State of Delaware Department of Education, seeks professional services to supply products and services to replace the current content filtering solution used by the Delaware public education system. This request for proposals (“RFP”) is issued pursuant to 29 *Del. C.* §§ 6981 and 6982.

The proposed schedule of events subject to the RFP is outlined below:

Public Notice	Date: <b>August 6, 2020</b>
Voluntary Pre-Bid Meeting:	Date: <b>August 17, 2020 at 9:00 AM</b>
Deadline for Questions	Date: <b>August 21, 2020</b>
Response to Questions Posted by:	Date: <b>August 28, 2020</b>
Deadline for Receipt of Proposals (Local Time)	Date: <b>September 9, 2020 at 2:00 PM</b>
Estimated Notification of Award	Date: <b>October/November 2020</b>

Each proposal must be accompanied by a transmittal letter which briefly summarizes the proposing firm’s interest in providing the required professional services. The transmittal letter must also clearly state and justify any exceptions to the requirements of the RFP which the

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applicant may have taken in presenting the proposal. (Applicant exceptions must also be recorded on Attachment 3).

Furthermore, the transmittal letter must attest to the fact, at a minimum, that the vendor shall not store or transfer non-public State of Delaware data outside of the United States. For technology related solicitations, vendors may refer to the Delaware Department of Technology and Information identified terms and conditions included in this solicitation.

The State of Delaware reserves the right to deny any and all exceptions taken to the RFP requirements.

**Voluntary PREBID MEETING**

A voluntary pre-bid meeting has been scheduled for **August 17, 2020 at 9:00 AM EST**. This will be a virtual meeting, connection information is below:

**WebEx Meeting Link:**

<https://delawaredoe.webex.com/delawaredoe/j.php?MTID=m25e83deec1be52974d0051cafdc2828d>

**Join by Phone:** 1-408-418-9388

**II. Scope of Services**

Please reference Appendix B for a detailed description of the Scope of Work and Technical Requirements.

**III. Required Information**

The following information shall be provided in each proposal in the order listed below. Failure to respond to any request for information within this proposal may result in rejection of the proposal at the sole discretion of the State.

**A. Minimum Requirements**

1. Provide Delaware license(s) and/or certification(s) necessary to perform services as identified in the scope of work.

Prior to the execution of an award document, the successful vendor shall either furnish the Agency with proof of State of Delaware Business Licensure or initiate the process of application where required.

2. Vendor shall provide responses to the Request for Proposal (RFP) scope of work and clearly identify capabilities as presented in the General Evaluation Requirements below.
3. Complete all appropriate attachments and forms as identified within the RFP.
4. Proof of insurance and amount of insurance shall be furnished to the Agency prior to the start of the contract period and shall be no less than as identified in the bid solicitation, Section V, Item 8, subsection g (insurance).

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**B. General Evaluation Requirements**

1. Filtering
2. Monitoring & Reporting
3. Compatibility & BYOD
4. Management
5. Security
6. Capacity & Bandwidth Management
7. End Users
8. Support
9. Cost

**IV. Professional Services RFP Administrative Information**

**A. RFP Issuance**

**1. Public Notice**

Public notice has been provided in accordance with 29 *Del. C.* §6981.

**2. Obtaining Copies of the RFP**

This RFP is available in electronic form through the State of Delaware Procurement website at [www.bids.delaware.gov](http://www.bids.delaware.gov) . Paper copies of this RFP will not be available.

**3. Assistance to Vendors with a Disability**

Vendors with a disability may receive accommodation regarding the means of communicating this RFP or participating in the procurement process. For more information, contact the Designated Contact no later than ten days prior to the deadline for receipt of proposals.

**4. RFP Designated Contact**

All requests, questions, or other communications about this RFP shall be made in writing to the State of Delaware. Address all communications to the person listed below; communications made to other State of Delaware personnel or attempting to ask questions by phone or in person will not be allowed or recognized as valid and may disqualify the vendor. Vendors should rely only on written statements issued by the RFP designated contact.

**Meaghan Brennan**  
**DE Department of Education, Finance Office**  
**401 Federal Street, Ste. 2**  
**Dover, DE 19901**  
**Email: [Meaghan.Brennan@doe.k12.de.us](mailto:Meaghan.Brennan@doe.k12.de.us)**

To ensure that written requests are received and answered in a timely manner, electronic mail (e-mail) correspondence is acceptable, but other forms of delivery, such as postal and courier services can also be used.

**5. Consultants and Legal Counsel**

The State of Delaware may retain consultants or legal counsel to assist in the review and evaluation of this RFP and the vendors' responses. Bidders shall not contact the State's consultant or legal counsel on any matter related to the RFP.

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**6. Contact with State Employees**

Direct contact with State of Delaware employees other than the State of Delaware Designated Contact regarding this RFP is expressly prohibited without prior consent. Vendors directly contacting State of Delaware employees risk elimination of their proposal from further consideration. Exceptions exist only for organizations currently doing business in the State who require contact in the normal course of doing that business.

**7. Organizations Ineligible to Bid**

Any individual, business, organization, corporation, consortium, partnership, joint venture, or any other entity including subcontractors currently debarred or suspended is ineligible to bid. Any entity ineligible to conduct business in the State of Delaware for any reason is ineligible to respond to the RFP.

**8. Exclusions**

The Proposal Evaluation Team reserves the right to refuse to consider any proposal from a vendor who:

- a. Has been convicted for commission of a criminal offense as an incident to obtaining or attempting to obtain a public or private contract or subcontract, or in the performance of the contract or subcontract;
- b. Has been convicted under State or Federal statutes of embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, or other offense indicating a lack of business integrity or business honesty that currently and seriously affects responsibility as a State contractor;
- c. Has been convicted or has had a civil judgment entered for a violation under State or Federal antitrust statutes;
- d. Has violated contract provisions such as;
  - 1) Known failure without good cause to perform in accordance with the specifications or within the time limit provided in the contract; or
  - 2) Failure to perform or unsatisfactory performance in accordance with terms of one or more contracts;
- e. Has violated ethical standards set out in law or regulation; and
- f. Any other cause listed in regulations of the State of Delaware determined to be serious and compelling as to affect responsibility as a State contractor, including suspension or debarment by another governmental entity for a cause listed in the regulations.

**B. RFP Submissions**

**1. Acknowledgement of Understanding of Terms**

By submitting a bid, each vendor shall be deemed to acknowledge that it has carefully read all sections of this RFP, including all forms, schedules and exhibits hereto, and has fully informed itself as to all existing conditions and limitations.

**2. Proposals**

To be considered, all proposals must be submitted in writing and respond to the items outlined in this RFP. The State reserves the right to reject any non-responsive or non-conforming proposals. Each proposal must be submitted with **4** paper copies including a price proposal and **2** electronic copies on separate USB memory drives. For electronic copies, please provide a separate pricing file from the rest of the RFP proposal responses.

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All properly sealed and marked proposals are to be sent to the State of Delaware and received no later than **2:00 PM (Local Time) on September 9, 2020**. The Proposals may be delivered by Express Delivery (e.g., FedEx, UPS, etc.), US Mail, or by hand to:

**Meaghan Brennan**  
**DE Department of Education, Finance Office, Rm. 275**  
**401 Federal Street, Ste. 2**  
**Dover, DE 19901**

**Vendors are directed to clearly print “BID ENCLOSED” and “CONTRACT NO. 2021-01” on the outside of the bid submission package.**

Any proposal received after the Deadline for Receipt of Proposals date shall not be considered and shall be returned unopened. The proposing vendor bears the risk of delays in delivery and any costs for returned proposals. The contents of any proposal shall not be disclosed as to be made available to competing entities during the negotiation process.

Upon receipt of vendor proposals, each vendor shall be presumed to be thoroughly familiar with all specifications and requirements of this RFP. The failure or omission to examine any form, instrument or document shall in no way relieve vendors from any obligation in respect to this RFP.

**3. Proposal Modifications**

Any changes, amendments or modifications to a proposal must be made in writing, submitted in the same manner as the original response and conspicuously labeled as a change, amendment or modification to a previously submitted proposal. Changes, amendments or modifications to proposals shall not be accepted or considered after the hour and date specified as the deadline for submission of proposals.

**4. Proposal Costs and Expenses**

The State of Delaware will not pay any costs incurred by any vendor associated with any aspect of responding to this solicitation, including proposal preparation, printing or delivery, attendance at vendor's conference, system demonstrations or negotiation process.

**5. Proposal Expiration Date**

Prices quoted in the proposal shall remain fixed and binding on the bidder at least through one year from the date of proposal receipt. The State of Delaware reserves the right to ask for an extension of time if needed.

**6. Late Proposals**

Proposals received after the specified date and time will not be accepted or considered. To guard against premature opening, sealed proposals shall be submitted, plainly marked with the proposal title, vendor name, and time and date of the proposal opening. Evaluation of the proposals is expected to begin shortly after the proposal due date. To document compliance with the deadline, the proposal will be date and time stamped upon receipt.

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**7. Proposal Opening**

The State of Delaware will receive proposals until the date and time shown in this RFP. Proposals will be opened in the presence of State of Delaware personnel. Any unopened proposals will be returned to the submitting vendor.

There will be no public opening of proposals but a public log will be kept of the names of all vendor organizations that submitted proposals. The contents of any proposal shall not be disclosed in accordance with Governor Jack A. Markell's Executive Order # 31 signed on October 20, 2011 and Title 29, Delaware Code, Chapter 100.

**8. Non-Conforming Proposals**

Non-conforming proposals will not be considered. Non-conforming proposals are defined as those that do not meet the requirements of this RFP. The determination of whether an RFP requirement is substantive or a mere formality shall reside solely within the State of Delaware.

**9. Concise Proposals**

The State of Delaware discourages overly lengthy and costly proposals. It is the desire that proposals be prepared in a straightforward and concise manner. Unnecessarily elaborate brochures or other promotional materials beyond those sufficient to present a complete and effective proposal are not desired. The State of Delaware's interest is in the quality and responsiveness of the proposal.

**10. Realistic Proposals**

It is the expectation of the State of Delaware that vendors can fully satisfy the obligations of the proposal in the manner and timeframe defined within the proposal. Proposals must be realistic and must represent the best estimate of time, materials and other costs including the impact of inflation and any economic or other factors that are reasonably predictable.

The State of Delaware shall bear no responsibility or increase obligation for a vendor's failure to accurately estimate the costs or resources required to meet the obligations defined in the proposal.

**11. Confidentiality of Documents**

Subject to applicable law or the order of a court of competent jurisdiction to the contrary, all documents submitted as part of the vendor's proposal will be treated as confidential during the evaluation process. As such, vendor proposals will not be available for review by anyone other than the State of Delaware/Proposal Evaluation Team or its designated agents. There shall be no disclosure of any vendor's information to a competing vendor prior to award of the contract unless such disclosure is required by law or by order of a court of competent jurisdiction.

The State of Delaware and its constituent agencies are required to comply with the State of Delaware Freedom of Information Act, [29 Del. C. § 10001, et seq. \("FOIA"\)](#). FOIA requires that the State of Delaware's records are public records (unless otherwise declared by FOIA or other law to be exempt from disclosure) and are subject to inspection and copying by any person upon a written request. Once a proposal is received by the State of Delaware and a decision on contract award is made, the

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content of selected and non-selected vendor proposals will likely become subject to FOIA's public disclosure obligations.

The State of Delaware wishes to create a business-friendly environment and procurement process. As such, the State respects the vendor community's desire to protect its intellectual property, trade secrets, and confidential business information (collectively referred to herein as "confidential business information"). Proposals must contain sufficient information to be evaluated. If a vendor feels that they cannot submit their proposal without including confidential business information, they must adhere to the following procedure or their proposal may be deemed unresponsive, may not be recommended for selection, and any applicable protection for the vendor's confidential business information may be lost.

In order to allow the State to assess its ability to protect a vendor's confidential business information, vendors will be permitted to designate appropriate portions of their proposal as confidential business information.

Vendor(s) may submit portions of a proposal considered to be confidential business information in a separate, sealed envelope labeled "Confidential Business Information" and include the specific RFP number. The envelope must contain a letter from the vendor's legal counsel describing the documents in the envelope, representing in good faith that the information in each document is not "public record" as defined by 29 Del. C. § 10002, and briefly stating the reasons that each document meets the said definitions.

Upon receipt of a proposal accompanied by such a separate, sealed envelope, the State of Delaware will open the envelope to determine whether the procedure described above has been followed. A vendor's allegation as to its confidential business information shall not be binding on the State. The State shall independently determine the validity of any vendor designation as set forth in this section. Any vendor submitting a proposal or using the procedures discussed herein expressly accepts the State's absolute right and duty to independently assess the legal and factual validity of any information designated as confidential business information. Accordingly, vendor(s) assume the risk that confidential business information included within a proposal may enter the public domain.

**12. Price Not Confidential**

Vendors shall be advised that as a publicly bid contract, no vendor shall retain the right to declare their pricing confidential.

**13. Multi-Vendor Solutions (Joint Ventures)**

Multi-Vendor solutions (joint ventures) will be allowed only if one of the venture partners is designated as the "**prime contractor**". The "**prime contractor**" must be the joint venture's contact point for the State of Delaware and be responsible for the joint venture's performance under the contract, including all project management, legal and financial responsibility for the implementation of all vendor systems. If a joint venture is proposed, a copy of the joint venture agreement clearly describing the responsibilities of the partners must be submitted with the proposal. Services specified in the proposal shall not be subcontracted without prior written approval by the State of Delaware, and approval of a request to subcontract shall not in any way relieve vendor of responsibility for the professional and technical accuracy and adequacy of

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the work. Further, vendor shall be and remain liable for all damages to the State of Delaware caused by negligent performance or non-performance of work by its subcontractor or its sub-subcontractor.

Multi-vendor proposals must be a consolidated response with all cost included in the cost summary. Where necessary, RFP response pages are to be duplicated for each vendor.

**a. Primary Vendor**

The State of Delaware expects to negotiate and contract with only one “prime vendor”. The State of Delaware will not accept any proposals that reflect an equal teaming arrangement or from vendors who are co-bidding on this RFP. The prime vendor will be responsible for the management of all subcontractors.

Any contract that may result from this RFP shall specify that the prime vendor is solely responsible for fulfillment of any contract with the State as a result of this procurement. The State will make contract payments only to the awarded vendor. Payments to any-subcontractors are the sole responsibility of the prime vendor (awarded vendor).

Nothing in this section shall prohibit the State of Delaware from the full exercise of its options under Section IV.B.18 regarding multiple source contracting.

**b. Sub-contracting**

The vendor selected shall be solely responsible for contractual performance and management of all subcontract relationships. This contract allows subcontracting assignments; however, vendors assume all responsibility for work quality, delivery, installation, maintenance, and any supporting services required by a subcontractor.

Use of subcontractors must be clearly explained in the proposal, and major subcontractors must be identified by name. **The prime vendor shall be wholly responsible for the entire contract performance whether or not subcontractors are used.** Any sub-contractors must be approved by State of Delaware.

**c. Multiple Proposals**

A primary vendor may not participate in more than one proposal in any form. Sub-contracting vendors may participate in multiple joint venture proposals.

**14. Discrepancies and Omissions**

Vendor is fully responsible for the completeness and accuracy of their proposal, and for examining this RFP and all addenda. Failure to do so will be at the sole risk of vendor. Should vendor find discrepancies, omissions, unclear or ambiguous intent or meaning, or should any questions arise concerning this RFP, vendor shall notify the State of Delaware’s Designated Contact, in writing, of such findings at least ten (10) days before the proposal opening. This will allow issuance of any necessary addenda. It will also help prevent the opening of a defective proposal and exposure of vendor’s proposal upon which award could not be made. All unresolved issues should be addressed in the proposal.

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Protests based on any omission or error, or on the content of the solicitation, will be disallowed if these faults have not been brought to the attention of the Designated Contact, in writing, at least ten (10) calendar days prior to the time set for opening of the proposals.

**a. RFP Question and Answer Process**

The State of Delaware will allow written requests for clarification of the RFP. All questions shall be received no later than **August 21, 2020**. All questions should be posted on DDOE's website at: <https://doeapppublic01.doe.k12.de.us/BidManagementPublic/#home>. All questions will be consolidated into a single set of responses and posted on both DDOE's website, as well as the State's website at [www.bids.delaware.gov](http://www.bids.delaware.gov) by the date of **August 28, 2020**. Vendor names will be removed from questions in the responses released. Questions should be submitted in the following format. Deviations from this format will not be accepted.

Section number

Paragraph number

Page number

Text of passage being questioned

Questions not submitted electronically shall be accompanied by a CD and questions shall be formatted in Microsoft Word.

**15. State's Right to Reject Proposals**

The State of Delaware reserves the right to accept or reject any or all proposals or any part of any proposal, to waive defects, technicalities or any specifications (whether they be in the State of Delaware's specifications or vendor's response), to sit and act as sole judge of the merit and qualifications of each product offered, or to solicit new proposals on the same project or on a modified project which may include portions of the originally proposed project as the State of Delaware may deem necessary in the best interest of the State of Delaware.

**16. State's Right to Cancel Solicitation**

The State of Delaware reserves the right to cancel this solicitation at any time during the procurement process, for any reason or for no reason. The State of Delaware makes no commitments expressed or implied, that this process will result in a business transaction with any vendor.

This RFP does not constitute an offer by the State of Delaware. Vendor's participation in this process may result in the State of Delaware selecting your organization to engage in further discussions and negotiations toward execution of a contract. The commencement of such negotiations does not, however, signify a commitment by the State of Delaware to execute a contract nor to continue negotiations. The State of Delaware may terminate negotiations at any time and for any reason, or for no reason.

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**17. State's Right to Award Multiple Source Contracting**

Pursuant to 29 *Del. C.* § 6986, the State of Delaware may award a contract for a particular professional service to two or more vendors if the agency head makes a determination that such an award is in the best interest of the State of Delaware.

**18. Potential Contract Overlap**

Vendors shall be advised that the State, at its sole discretion, shall retain the right to solicit for goods and/or services as required by its agencies and as it serves the best interest of the State. As needs are identified, there may exist instances where contract deliverables, and/or goods or services to be solicited and subsequently awarded, overlap previous awards. The State reserves the right to reject any or all bids in whole or in part, to make partial awards, to award to multiple vendors during the same period, to award by types, on a zone-by-zone basis or on an item-by-item or lump sum basis item by item, or lump sum total, whichever may be most advantageous to the State of Delaware.

**19. Supplemental Solicitation**

The State reserves the right to advertise a supplemental solicitation during the term of the Agreement if deemed in the best interest of the State.

**20. Notification of Withdrawal of Proposal**

Vendor may modify or withdraw its proposal by written request, provided that both proposal and request is received by the State of Delaware prior to the proposal due date. Proposals may be re-submitted in accordance with the proposal due date in order to be considered further.

Proposals become the property of the State of Delaware at the proposal submission deadline. All proposals received are considered firm offers at that time.

**21. Revisions to the RFP**

If it becomes necessary to revise any part of the RFP, an addendum will be posted on the State of Delaware's website at [www.bids.delaware.gov](http://www.bids.delaware.gov). The State of Delaware is not bound by any statement related to this RFP made by any State of Delaware employee, contractor or its agents.

**22. Exceptions to the RFP**

Any exceptions to the RFP, or the State of Delaware's terms and conditions, must be recorded on Attachment 3. Failure to notate exceptions will waive vendor's ability to negotiate the specifications, terms or conditions outlined in this RFP. Acceptance of exceptions is within the sole discretion of the evaluation committee.

**24. Business References**

Provide at least three (3) business references consisting of current or previous customers of similar scope and value using Attachment 5. Include business name, mailing address, contact name and phone number, number of years doing business with, and type of work performed. Personal references cannot be considered.

**25. Award of Contract**

The final award of a contract is subject to approval by the State of Delaware. The State of Delaware has the sole right to select the successful vendor(s) for award, to reject any proposal as unsatisfactory or non-responsive, to award a contract to other

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than the lowest priced proposal, to award multiple contracts, or not to award a contract, as a result of this RFP.

Notice in writing to a vendor of the acceptance of its proposal by the State of Delaware and the subsequent full execution of a written contract will constitute a contract, and no vendor will acquire any legal or equitable rights or privileges until the occurrence of both such events.

**a. RFP Award Notifications**

After reviews of the evaluation committee report and its recommendation, and once the contract terms and conditions have been finalized, the State of Delaware will award the contract.

The contract shall be awarded to the vendor whose proposal is most advantageous, taking into consideration the evaluation factors set forth in the RFP.

It should be explicitly noted that the State of Delaware is not obligated to award the contract to the vendor who submits the lowest bid or the vendor who receives the highest total point score, rather the contract will be awarded to the vendor whose proposal is the most advantageous to the State of Delaware. The award is subject to the appropriate State of Delaware approvals.

After a final selection is made, the winning vendor will be invited to negotiate a contract with the State of Delaware; remaining vendors will be notified in writing of their selection status.

**26. Cooperatives**

Vendors, who have been awarded similar contracts through a competitive bidding process with a cooperative, are welcome to submit the cooperative pricing for this solicitation. State of Delaware terms will take precedence.

**C. RFP Evaluation Process**

An evaluation team composed of representatives of the State of Delaware will evaluate proposals on a variety of quantitative criteria. Neither the lowest price nor highest scoring proposal will necessarily be selected.

The State of Delaware reserves full discretion to determine the competence and responsibility, professionally and/or financially, of vendors. Vendors are to provide in a timely manner any and all information that the State of Delaware may deem necessary to make a decision.

**1. Proposal Evaluation Team**

The Proposal Evaluation Team shall be comprised of representatives of the State of Delaware. The Team shall determine which vendors meet the minimum requirements pursuant to selection criteria of the RFP and procedures established in 29 *Del. C.* §§ 6981 and 6982. Professional services for this solicitation are considered under 29 *Del. C.* §6982(b). The Team may negotiate with one or more vendors during the same period and may, at its discretion, terminate negotiations with any or all vendors. The Team shall make a recommendation regarding the award to the Associate Secretary of Financial Management and Operations, who shall have final authority, subject to

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the provisions of this RFP and 29 *Del. C.* § 6982(b), to award a contract to the successful vendor in the best interests of the State of Delaware.

**2. Proposal Selection Criteria**

The Proposal Evaluation Team shall assign up to the maximum number of points for each Evaluation Item to each of the proposing vendor's proposals. All assignments of points shall be at the sole discretion of the Proposal Evaluation Team.

The proposals shall contain the essential information on which the award decision shall be made. The information required to be submitted in response to this RFP has been determined by the State of Delaware to be essential for use by the Team in the bid evaluation and award process. Therefore, all instructions contained in this RFP shall be met in order to qualify as a responsive and responsible contractor and participate in the Proposal Evaluation Team's consideration for award. Proposals which do not meet or comply with the instructions of this RFP may be considered non-conforming and deemed non-responsive and subject to disqualification at the sole discretion of the Team.

The Team reserves the right to:

- Select for contract or for negotiations a proposal other than that with lowest costs.
- Reject any and all proposals or portions of proposals received in response to this RFP or to make no award or issue a new RFP.
- Waive or modify any information, irregularity, or inconsistency in proposals received.
- Request modification to proposals from any or all vendors during the contract review and negotiation.
- Negotiate any aspect of the proposal with any vendor and negotiate with more than one vendor at the same time.
- Select more than one vendor pursuant to 29 *Del. C.* §6986.

**Criteria Weight**

All proposals shall be evaluated using the same criteria and scoring process. The following criteria shall be used by the Evaluation Team to evaluate proposals:

Criteria	Weight
Filtering	20%
Monitoring & Reporting	18%
Compatibility & BYOD	15%
Management	10%
Security	9%
Capacity & Bandwidth Management	8%
End Users	8%
Support	6%
Cost	6%
<b>Total</b>	<b>100%</b>

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Vendors are encouraged to review the evaluation criteria and to provide a response that addresses each of the scored items. Evaluators will not be able to make assumptions about a vendor's capabilities so the responding vendor should be detailed in their proposal responses.

**3. Proposal Clarification**

The Evaluation Team may contact any vendor in order to clarify uncertainties or eliminate confusion concerning the contents of a proposal. Proposals may not be modified as a result of any such clarification request.

**4. References**

The Evaluation Team may contact any customer of the vendor, whether or not included in the vendor's reference list, and use such information in the evaluation process. Additionally, the State of Delaware may choose to visit existing installations of comparable systems, which may or may not include vendor personnel. If the vendor is involved in such site visits, the State of Delaware will pay travel costs only for State of Delaware personnel for these visits.

**5. Oral Presentations**

After initial scoring and a determination that vendor(s) are qualified to perform the required services, selected vendors may be invited to make oral presentations to the Evaluation Team. All vendor(s) selected will be given an opportunity to present to the Evaluation Team.

The selected vendors will have their presentations scored or ranked based on their ability to successfully meet the needs of the contract requirements, successfully demonstrate their product and/or service, and respond to questions about the solution capabilities.

The vendor representative(s) attending the oral presentation shall be technically qualified to respond to questions related to the proposed system and its components. All of the vendor's costs associated with participation in oral discussions and system demonstrations conducted for the State of Delaware are the vendor's responsibility.

**V. Contract Terms and Conditions**

**1. Contract Use by Other Agencies**

**REF: Title 29, Chapter 6904(e) Delaware Code.** If no state contract exists for a certain good or service, covered agencies may procure that certain good or service under another agency's contract so long as the arrangement is agreeable to all parties. Agencies, other than covered agencies, may also procure such goods or services under another agency's contract when the arrangement is agreeable to all parties.

**2. Cooperative Use of Award**

As a publicly competed contract awarded in compliance with 29 DE Code Chapter 69, this contract is available for use by other states and/or governmental entities through a participating addendum. Interested parties should contact the State Contract Procurement Officer identified in the contract for instruction. Final approval for

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permitting participation in this contract resides with the Director of Government Support Services and in no way places any obligation upon the awarded vendor(s).

**3. As a Service Subscription**

As a Service subscription license costs shall be incurred at the individual license level only as the individual license is utilized within a fully functioning solution. Subscription costs will not be applicable during periods of implementation and solution development prior to the State's full acceptance of a working solution. Additional subscription license requests above actual utilization may not exceed 5% of the total and are subject to Delaware budget and technical review.

**4. General Information**

- a. The term of the contract between the successful bidder and the State shall be for **up to 21 months** with **4** optional extensions for a period of one (1) year for each extension.
- b. The selected vendor will be required to enter into a written agreement with the State of Delaware. The State of Delaware reserves the right to incorporate standard State contractual provisions into any contract negotiated as a result of a proposal submitted in response to this RFP. Any proposed modifications to the terms and conditions of the standard contract are subject to review and approval by the State of Delaware. Vendors will be required to sign the contract for all services, and may be required to sign additional agreements.
- c. The selected vendor or vendors will be expected to enter negotiations with the State of Delaware, which will result in a formal contract between parties. Procurement will be in accordance with subsequent contracted agreement. This RFP and the selected vendor's response to this RFP will be incorporated as part of any formal contract.
- d. The State of Delaware's standard contract will most likely be supplemented with the vendor's software license, support/maintenance, source code escrow agreements, and any other applicable agreements. The terms and conditions of these agreements will be negotiated with the finalist during actual contract negotiations.
- e. The successful vendor shall promptly execute a contract incorporating the terms of this RFP within twenty (20) days after award of the contract. No vendor is to begin any service prior to receipt of a State of Delaware purchase order signed by two authorized representatives of the agency requesting service, properly processed through the State of Delaware Accounting Office and the Department of Finance. The purchase order shall serve as the authorization to proceed in accordance with the bid specifications and the special instructions, once it is received by the successful vendor.
- f. If the vendor to whom the award is made fails to enter into the agreement as herein provided, the award will be annulled, and an award may be made to another vendor. Such vendor shall fulfill every stipulation embraced herein as if they were the party to whom the first award was made.
- g. The State reserves the right to extend this contract on a month-to-month basis for a period of up to three months after the term of the full contract has been completed.
- h. Vendors are not restricted from offering lower pricing at any time during the contract term.

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**5. Collusion or Fraud**

Any evidence of agreement or collusion among vendor(s) and prospective vendor(s) acting to illegally restrain freedom from competition by agreement to offer a fixed price, or otherwise, will render the offers of such vendor(s) void.

By responding, the vendor shall be deemed to have represented and warranted that its proposal is not made in connection with any competing vendor submitting a separate response to this RFP, and is in all respects fair and without collusion or fraud; that the vendor did not participate in the RFP development process and had no knowledge of the specific contents of the RFP prior to its issuance; and that no employee or official of the State of Delaware participated directly or indirectly in the vendor's proposal preparation.

Advance knowledge of information which gives any particular vendor advantages over any other interested vendor(s), in advance of the opening of proposals, whether in response to advertising or an employee or representative thereof, will potentially void that particular proposal.

**6. Lobbying and Gratuities**

Lobbying or providing gratuities shall be strictly prohibited. Vendors found to be lobbying, providing gratuities to, or in any way attempting to influence a State of Delaware employee or agent of the State of Delaware concerning this RFP or the award of a contract resulting from this RFP shall have their proposal immediately rejected and shall be barred from further participation in this RFP.

The selected vendor will warrant that no person or selling agency has been employed or retained to solicit or secure a contract resulting from this RFP upon agreement or understanding for a commission, or a percentage, brokerage or contingent fee. For breach or violation of this warranty, the State of Delaware shall have the right to annul any contract resulting from this RFP without liability or at its discretion deduct from the contract price or otherwise recover the full amount of such commission, percentage, brokerage or contingent fee.

All contact with State of Delaware employees, contractors or agents of the State of Delaware concerning this RFP shall be conducted in strict accordance with the manner, forum and conditions set forth in this RFP.

**7. Solicitation of State Employees**

Until contract award, vendors shall not, directly or indirectly, solicit any employee of the State of Delaware to leave the State of Delaware's employ in order to accept employment with the vendor, its affiliates, actual or prospective contractors, or any person acting in concert with vendor, without prior written approval of the State of Delaware's contracting officer. Solicitation of State of Delaware employees by a vendor may result in rejection of the vendor's proposal.

This paragraph does not prevent the employment by a vendor of a State of Delaware employee who has initiated contact with the vendor. However, State of Delaware employees may be legally prohibited from accepting employment with the contractor or subcontractor under certain circumstances. Vendors may not knowingly employ a person who cannot legally accept employment under state or federal law. If a vendor discovers that they have done so, they must terminate that employment immediately.

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**8. General Contract Terms**

**a. Independent Contractors**

The parties to the contract shall be independent contractors to one another, and nothing herein shall be deemed to cause this agreement to create an agency, partnership, joint venture or employment relationship between parties. Each party shall be responsible for compliance with all applicable workers compensation, unemployment, disability insurance, social security withholding and all other similar matters. Neither party shall be liable for any debts, accounts, obligations or other liability whatsoever of the other party or any other obligation of the other party to pay on the behalf of its employees or to withhold from any compensation paid to such employees any social benefits, workers compensation insurance premiums or any income or other similar taxes.

It may be at the State of Delaware's discretion as to the location of work for the contractual support personnel during the project period. The State of Delaware may provide working space and sufficient supplies and material to augment the Contractor's services.

**b. Temporary Personnel are Not State Employees Unless and Until They are Hired**

Vendor agrees that any individual or group of temporary staff person(s) provided to the State of Delaware pursuant to this Solicitation shall remain the employee(s) of vendor for all purposes including any required compliance with the Affordable Care Act by the vendor. Vendor agrees that it shall not allege, argue, or take any position that individual temporary staff person(s) provided to the State pursuant to this Solicitation must be provided any benefits, including any healthcare benefits by the State of Delaware and vendor agrees to assume the total and complete responsibility for the provision of any healthcare benefits required by the Affordable Care Act to aforesaid individual temporary staff person(s). In the event that the Internal Revenue Service, or any other third party governmental entity determines that the State of Delaware is a dual employer or the sole employer of any individual temporary staff person(s) provided to the State of Delaware pursuant to this Solicitation, vendor agrees to hold harmless, indemnify, and defend the State to the maximum extent of any liability to the State arising out of such determinations.

Notwithstanding the content of the preceding paragraph, should the State of Delaware subsequently directly hire any individual temporary staff employee(s) provided pursuant to this Solicitation, the aforementioned obligations to hold harmless, indemnify, and defend the State of Delaware shall cease and terminate for the period following the date of hire. Nothing herein shall be deemed to terminate the vendor's obligation to hold harmless, indemnify, and defend the State of Delaware for any liability that arises out of compliance with the ACA prior to the date of hire by the State of Delaware. Vendor will waive any separation fee provided an employee works for both the vendor and hiring agency, continuously, for a three (3) month period and is provided thirty (30) days written notice of intent to hire from the agency. Notice can be issued at second month if it is the State's intention to hire.

**c. ACA Safe Harbor**

The State and its utilizing agencies are not the employer of temporary or contracted staff. However, the State is concerned that it could be determined to be

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a Common-law Employer as defined by the Affordable Care Act (“ACA”). Therefore, the State seeks to utilize the “Common-law Employer Safe Harbor Exception” under the ACA to transfer health benefit insurance requirements to the staffing company. The Common-law Employer Safe Harbor Exception can be attained when the State and/or its agencies are charged and pay for an “Additional Fee” with respect to the employees electing to obtain health coverage from the vendor.

The Common-law Employer Safe Harbor Exception under the ACA requires that an Additional Fee must be charged to those employees who obtain health coverage from the vendor, but does not state the required amount of the fee. The State requires that all vendors shall identify the Additional Fee to obtain health coverage from the vendor and delineate the Additional Fee from all other charges and fees. The vendor shall identify both the Additional Fee to be charged and the basis of how the fee is applied (i.e. per employee, per invoice, etc.). The State will consider the Additional Fee and prior to award reserves the right to negotiate any fees offered by the vendor. Further, the Additional Fee shall be separately scored in the proposal to ensure that neither prices charged nor the Additional Fee charged will have a detrimental effect when selecting vendor(s) for award.

**d. Licenses and Permits**

In performance of the contract, the vendor will be required to comply with all applicable federal, state and local laws, ordinances, codes, and regulations. The cost of permits and other relevant costs required in the performance of the contract shall be borne by the successful vendor. The vendor shall be properly licensed and authorized to transact business in the State of Delaware as provided in 30 *Del. C.* § 2502.

Prior to receiving an award, the successful vendor shall either furnish the State of Delaware with proof of State of Delaware Business Licensure or initiate the process of application where required. An application may be requested in writing to: Division of Revenue, Carvel State Building, P.O. Box 8750, 820 N. French Street, Wilmington, DE 19899 or by telephone to one of the following numbers: (302) 577-8200 - Public Service, (302) 577-8205 - Licensing Department.

Information regarding the award of the contract will be given to the Division of Revenue. Failure to comply with the State of Delaware licensing requirements may subject vendor to applicable fines and/or interest penalties.

**e. Notice**

Any notice to the State of Delaware required under the contract shall be sent by registered mail to:

**DELAWARE DEPARTMENT OF EDUCATION  
FINANCE OFFICE, RM. 275  
401 FEDERAL STREET, SUITE 2  
DOVER, DE 19901  
ATTN: MEAGHAN BRENNAN**

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**f. Indemnification**

**1. General Indemnification**

By submitting a proposal, the proposing vendor agrees that in the event it is awarded a contract, it will indemnify and otherwise hold harmless the State of Delaware, its agents and employees from any and all liability, suits, actions, or claims, together with all costs, expenses for attorney's fees, arising out of the vendor's, its agents and employees' performance work or services in connection with the contract.

**2. Proprietary Rights Indemnification**

Vendor shall warrant that all elements of its solution, including all equipment, software, documentation, services and deliverables, do not and will not infringe upon or violate any patent, copyright, trade secret or other proprietary rights of any third party. In the event of any claim, suit or action by any third party against the State of Delaware, the State of Delaware shall promptly notify the vendor in writing and vendor shall defend such claim, suit or action at vendor's expense, and vendor shall indemnify the State of Delaware against any loss, cost, damage, expense or liability arising out of such claim, suit or action (including, without limitation, litigation costs, lost employee time, and counsel fees) whether or not such claim, suit or action is successful.

If any equipment, software, services (including methods) products or other intellectual property used or furnished by the vendor (collectively "Products") is or in vendor's reasonable judgment is likely to be, held to constitute an infringing product, vendor shall at its expense and option either:

- a. Procure the right for the State of Delaware to continue using the Product(s);
- b. Replace the product with a non-infringing equivalent that satisfies all the requirements of the contract; or
- c. Modify the Product(s) to make it or them non-infringing, provided that the modification does not materially alter the functionality or efficacy of the product or cause the Product(s) or any part of the work to fail to conform to the requirements of the Contract, or only alters the Product(s) to a degree that the State of Delaware agrees to and accepts in writing.

**g. Insurance**

1. Vendor recognizes that it is operating as an independent contractor and that it is liable for any and all losses, penalties, damages, expenses, attorney's fees, judgments, and/or settlements incurred by reason of injury to or death of any and all persons, or injury to any and all property, of any nature, arising out of the vendor's negligent performance under this contract, and particularly without limiting the foregoing, caused by, resulting from, or arising out of any act of omission on the part of the vendor in their negligent performance under this contract.
2. The vendor shall maintain such insurance as will protect against claims under Worker's Compensation Act and from any other claims for damages for personal injury, including death, which may arise from operations under this contract. The vendor is an independent contractor and is not an employee of the State of Delaware.

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3. As a part of the contract requirements, the contractor must obtain at its own cost and expense and keep in force and effect during the term of this contract, including all extensions, the minimum coverage limits specified below with a carrier satisfactory to the State. All contractors must carry the following coverage depending on the type of service or product being delivered.
- a. Worker's Compensation and Employer's Liability Insurance in accordance with applicable law.
  - b. Commercial General Liability - \$1,000,000.00 per occurrence/\$3,000,000 per aggregate.
  - c. Automotive Liability Insurance covering all automotive units used in the work (including all units leased from and/or provided by the State to vendor pursuant to this Agreement as well as all units used by vendor, regardless of the identity of the registered owner, used by vendor for completing the Work required by this Agreement to include but not limited to transporting Delaware clients or staff), providing coverage on a primary non-contributory basis with limits of not less than:
    - 1. 1,000,000 combined single limit each accident, for bodily injury;
    - 2. \$250,000 for property damage to others;
    - 3. \$25,000 per person per accident Uninsured/Underinsured Motorists coverage;
    - 4. \$25,000 per person, \$300,000 per accident Personal Injury Protection (PIP) benefits as provided for in 21 Del. C. §2118; and
    - 5. Comprehensive coverage for all leased vehicles, which shall cover the replacement cost of the vehicle in the event of collision, damage or other loss.

The successful vendor must carry at least one of the following depending on the scope of work being performed.

- a. Medical/Professional Liability - \$1,000,000 per occurrence/\$3,000,000 per aggregate
- b. Miscellaneous Errors and Omissions - \$1,000,000 per occurrence/\$3,000,000 per aggregate
- c. Product Liability - \$1,000,000 per occurrence/\$3,000,000 aggregate

Should any of the above described policies be cancelled before expiration date thereof, notice will be delivered in accordance with the policy provisions.

Before any work is done pursuant to this Agreement, the Certificate of Insurance and/or copies of the insurance policies, referencing the contract number stated herein, shall be filed with the State. The certificate holder is as follows:

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**DELAWARE DEPARTMENT OF EDUCATION**  
**Contract No: 2021-01**  
**State of Delaware**  
**401 Federal Street, Suite 2**  
**Dover, DE 19901**

Nothing contained herein shall restrict or limit the vendor's right to procure insurance coverage in amounts higher than those required by this Agreement. To the extent that the vendor procures insurance coverage in amounts higher than the amounts required by this Agreement, all said additionally procured coverages will be applicable to any loss or claim and shall replace the insurance obligations contained herein.

To the extent that vendor has complied with the terms of this Agreement and has procured insurance coverage for all vehicles Leased and/or operated by vendor as part of this Agreement, the State of Delaware's self-insured insurance program shall not provide any coverage whether coverage is sought as primary, co-primary, excess or umbrella insurer or coverage for any loss of any nature.

In no event shall the State of Delaware be named as an additional insured on any policy required under this agreement.

4. The vendor shall provide a Certificate of Insurance (COI) as proof that the vendor has the required insurance. The COI shall be provided prior to agency contact prior to any work being completed by the awarded vendor(s).
5. The State of Delaware shall not be named as an additional insured, BUT must be named as a Certificate Holder.
6. Should any of the above described policies be cancelled before expiration date thereof, notice will be delivered in accordance with the policy provisions.

**h. Performance Requirements**

The selected vendor will warrant that it possesses, or has arranged through subcontractors, all capital and other equipment, labor, materials, and licenses necessary to carry out and complete the work hereunder in compliance with any and all Federal and State laws, and County and local ordinances, regulations and codes.

**i. BID BOND**

There is no Bid Bond Requirement.

**j. PERFORMANCE BOND**

There is no Performance Bond requirement.

**k. Vendor Emergency Response Point of Contact**

The awarded vendor(s) shall provide the name(s), telephone, or cell phone number(s) of those individuals who can be contacted twenty four (24) hours a day, seven (7) days a week where there is a critical need for commodities or services when the Governor of the State of Delaware declares a state of emergency under the Delaware Emergency Operations Plan or in the event of a local emergency or

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disaster where a state governmental entity requires the services of the vendor. Failure to provide this information could render the proposal as non-responsive.

In the event of a serious emergency, pandemic or disaster outside the control of the State, the State may negotiate, as may be authorized by law, emergency performance from the Contractor to address the immediate needs of the State, even if not contemplated under the original Contract or procurement. Payments are subject to appropriation and other payment terms.

**I. Warranty**

The vendor will provide a warranty that the deliverables provided pursuant to the contract will function as designed for a period of no less than one (1) year from the date of system acceptance. The warranty shall require the vendor correct, at its own expense, the setup, configuration, customizations or modifications so that it functions according to the State's requirements.

**m. Costs and Payment Schedules**

All contract costs must be as detailed specifically in the vendor's cost proposal. No charges other than as specified in the proposal shall be allowed without written consent of the State of Delaware. The proposal costs shall include full compensation for all taxes that the selected vendor is required to pay.

The State of Delaware will require a payment schedule based on defined and measurable milestones. Payments for services will not be made in advance of work performed. The State of Delaware may require holdback of contract monies until acceptable performance is demonstrated (as much as 25%).

**n. Liquidated Damages**

The State of Delaware may include in the final contract liquidated damages provisions for non-performance.

**o. Dispute Resolution**

At the option of the parties, they shall attempt in good faith to resolve any dispute arising out of or relating to this Agreement promptly by negotiation between executives who have authority to settle the controversy and who are at a higher level of management than the persons with direct responsibility for administration of this Agreement. All offers, promises, conduct and statements, whether oral or written, made in the course of the negotiation by any of the parties, their agents, employees, experts and attorneys are confidential, privileged and inadmissible for any purpose, including impeachment, in arbitration or other proceeding involving the parties, provided evidence that is otherwise admissible or discoverable shall not be rendered inadmissible.

If the matter is not resolved by negotiation, as outlined above, or, alternatively, Delaware Department of Education elects to proceed directly to mediation, then the matter will proceed to mediation as set forth below. Any disputes, claims or controversies arising out of or relating to this Agreement shall be submitted to mediation by a mediator selected by the parties. If the matter is not resolved through mediation, it may be submitted for arbitration or litigation. Delaware Department of Education reserves the right to proceed directly to arbitration or litigation without negotiation or mediation. Any such proceedings held pursuant to

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this provision shall be governed by Delaware law and venue shall be in Delaware. Each party shall bear its own costs of mediation, arbitration or litigation, including attorneys' fees.

**p. Remedies**

Except as otherwise provided in this solicitation, including but not limited to Section 8.o above, all claims, counterclaims, disputes, and other matters in question between the State of Delaware and the Contractor arising out of, or relating to, this solicitation, or a breach of it may be decided by arbitration if the parties mutually agree, or in a court of competent jurisdiction within the State of Delaware.

**q. Termination of Contract**

The contract resulting from this RFP may be terminated as follows by Delaware Department of Education.

**1. Termination for Cause**

If, for any reasons, or through any cause, the vendor fails to fulfill in timely and proper manner its obligations under this Contract, or if the vendor violates any of the covenants, agreements, or stipulations of this Contract, the State shall thereupon have the right to terminate this contract by giving written notice to the vendor of such termination and specifying the effective date thereof, at least twenty (20) days before the effective date of such termination. In that event, all finished or unfinished documents, data, studies, surveys, drawings, maps, models, photographs, and reports or other material prepared by the vendor under this Contract shall, at the option of the State, become its property, and the vendor shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents and other materials which is usable to the State.

On receipt of the contract cancellation notice from the State, the vendor shall have no less than five (5) days to provide a written response and may identify a method(s) to resolve the violation(s). A vendor response shall not effect or prevent the contract cancellation unless the State provides a written acceptance of the vendor response. If the State does accept the vendor's method and/or action plan to correct the identified deficiencies, the State will define the time by which the vendor must fulfill its corrective obligations. Final retraction of the State's termination for cause will only occur after the vendor successfully rectifies the original violation(s). At its discretion the State may reject in writing the vendor's proposed action plan and proceed with the original contract cancellation timeline.

**2. Termination for Convenience**

The State may terminate this Contract at any time by giving written notice of such termination and specifying the effective date thereof, at least twenty (20) days before the effective date of such termination. In that event, all finished or unfinished documents, data, studies, surveys, drawings, models, photographs, reports, supplies, and other materials shall, at the option of the State, become its property and the vendor shall be entitled to receive compensation for any satisfactory work completed on such documents and other materials, and which is usable to the State.

**3. Termination for Non-Appropriations**

In the event the General Assembly fails to appropriate the specific funds necessary to enter into or continue the contractual agreement, in whole or part,

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the agreement shall be terminated as to any obligation of the State requiring the expenditure of money for which no specific appropriation is available at the end of the last fiscal year for which no appropriation is available or upon the exhaustion of funds. This is not a termination for convenience and will not be converted to such.

**r. Non-discrimination**

In performing the services subject to this RFP the vendor, as set forth in Title 19 Delaware Code Chapter 7 section 711, will agree that it will not discriminate against any employee or applicant with respect to compensation, terms, conditions or privileges of employment because of such individual's race, marital status, genetic information, color, age, religion, sex, sexual orientation, gender identity, or national origin. The successful vendor shall comply with all federal and state laws, regulations and policies pertaining to the prevention of discriminatory employment practice. Failure to perform under this provision constitutes a material breach of contract.

**s. Covenant against Contingent Fees**

The successful vendor will warrant that no person or selling agency has been employed or retained to solicit or secure this contract upon an agreement of understanding for a commission or percentage, brokerage or contingent fee excepting bona-fide employees, bona-fide established commercial or selling agencies maintained by the vendor for the purpose of securing business. For breach or violation of this warranty the State of Delaware shall have the right to annul the contract without liability or at its discretion to deduct from the contract price or otherwise recover the full amount of such commission, percentage, brokerage or contingent fee.

**t. Vendor Activity**

No activity is to be executed in an off shore facility, either by a subcontracted firm or a foreign office or division of the vendor. The vendor must attest to the fact that no activity will take place outside of the United States in its transmittal letter. Failure to adhere to this requirement is cause for elimination from future consideration.

**u. Vendor Responsibility**

The State will enter into a contract with the successful vendor(s). The successful vendor(s) shall be responsible for all products and services as required by this RFP whether or not the vendor or its subcontractor provided final fulfillment of the order. Subcontractors, if any, shall be clearly identified in the vendor's proposal by completing Attachment 6, and are subject the approval and acceptance of the Delaware Department of Education.

**v. Personnel, Equipment and Services**

1. The vendor represents that it has, or will secure at its own expense, all personnel required to perform the services required under this contract.
2. All of the equipment and services required hereunder shall be provided by or performed by the vendor or under its direct supervision, and all personnel, including subcontractors, engaged in the work shall be fully qualified and shall be authorized under State and local law to perform such services.

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3. None of the equipment and/or services covered by this contract shall be subcontracted without the prior written approval of the State. Only those subcontractors identified in Attachment 6 are considered approved upon award. Changes to those subcontractor(s) listed in Attachment 6 must be approved in writing by the State.

**w. Fair Background Check Practices**

Pursuant to 29 Del. C. §6909B, the State does not consider the criminal record, criminal history, credit history or credit score of an applicant for state employment during the initial application process unless otherwise required by state and/or federal law. Vendors doing business with the State are encouraged to adopt fair background check practices. Vendors can refer to 19 Del. C. §711(g) for applicable established provisions.

Pursuant to 31 Del. C. §309, any vendor, employee or contractor of a vendor, or independent contractor, that, as a result of this solicitation has regular direct access to children, or provides services directly to a child or children, must complete a background check. This mandatory check will consist of a fingerprinted Delaware and national background check completed by the State Bureau of Identification (SBI) as well as a Child Protection Registry check completed by the Department of Services for Children, Youth and Their Families (DSCYF). No work can begin until these requirements have been successfully met.

**x. Vendor Background Check Requirements**

Vendor(s) selected for an award that access state property or come in contact with vulnerable populations, including children and youth, shall be required to complete background checks on employees serving the State's on premises contracts. Unless otherwise directed, at a minimum, this shall include a check of the following registry:

- Delaware Sex Offender Central Registry at:  
<https://sexoffender.dsp.delaware.gov/>

Individuals that are listed in the registry shall be prevented from direct contact in the service of an awarded state contract, but may provide support or off-site premises service for contract vendors. Should an individual be identified and the vendor(s) believes their employee's service does not represent a conflict with this requirement, may apply for a waiver to the primary agency listed in the solicitation. The Agency's decision to allow or deny access to any individual identified on a registry database is final and at the Agency's sole discretion.

By Agency request, the vendor(s) shall provide a list of all employees serving an awarded contract, and certify adherence to the background check requirement. Individual(s) found in the central registry in violation of the terms stated, shall be immediately prevented from a return to state property in service of a contract award. A violation of this condition represents a violation of the contract terms and conditions, and may subject the vendor to penalty, including contract cancellation for cause.

Individual contracts may require additional background checks and/or security clearance(s), depending on the nature of the services to be provided or locations accessed, but any other requirements shall be stated in the contract scope of work

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or be a matter of common law. The vendor(s) shall be responsible for the background check requirements of any authorized Subcontractor providing service to the Agency's contract.

**y. Drug Testing Requirements for Large Public Works**

Pursuant to 29 Del.C. §6908(a)(6), effective as of January 1, 2016, OMB has established regulations that require Contractors and Subcontractors to implement a program of mandatory drug testing for Employees who work on Large Public Works Contracts funded all or in part with public funds. The regulations establish the mechanism, standards and requirements of a Mandatory Drug Testing Program that will be incorporated by reference into all Large Public Works Contracts awarded pursuant to 29 Del.C. §6962.

Final publication of the identified regulations can be found at the following:  
4104 Regulations for the Drug Testing of Contractor and Subcontractor Employees Working on Large Public Works Projects

**z. Work Product**

All materials and products developed under the executed contract by the vendor are the sole and exclusive property of the State. The vendor will seek written permission to use any product created under the contract.

**aa. Contract Documents**

The RFP, the purchase order, the executed contract and any supplemental documents between the State of Delaware and the successful vendor shall constitute the contract between the State of Delaware and the vendor. In the event there is any discrepancy between any of these contract documents, the following order of documents governs so that the former prevails over the latter: contract, State of Delaware's RFP, vendor's response to the RFP and purchase order. No other documents shall be considered. These documents will constitute the entire agreement between the State of Delaware and the vendor.

**bb. Applicable Law**

The laws of the State of Delaware shall apply, except where Federal Law has precedence. The successful vendor consents to jurisdiction and venue in the State of Delaware.

In submitting a proposal, vendors certify that they comply with all federal, state and local laws applicable to its activities and obligations including:

1. the laws of the State of Delaware;
2. the applicable portion of the Federal Civil Rights Act of 1964;
3. the Equal Employment Opportunity Act and the regulations issued there under by the federal government;
4. a condition that the proposal submitted was independently arrived at, without collusion, under penalty of perjury; and
5. that programs, services, and activities provided to the general public under resulting contract conform with the Americans with Disabilities Act of 1990, and the regulations issued there under by the federal government.

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If any vendor fails to comply with (1) through (5) of this paragraph, the State of Delaware reserves the right to disregard the proposal, terminate the contract, or consider the vendor in default.

The selected vendor shall keep itself fully informed of and shall observe and comply with all applicable existing Federal and State laws, and County and local ordinances, regulations and codes, and those laws, ordinances, regulations, and codes adopted during its performance of the work.

**cc. Severability**

If any term or provision of this Agreement is found by a court of competent jurisdiction to be invalid, illegal or otherwise unenforceable, the same shall not affect the other terms or provisions hereof or the whole of this Agreement, but such term or provision shall be deemed modified to the extent necessary in the court's opinion to render such term or provision enforceable, and the rights and obligations of the parties shall be construed and enforced accordingly, preserving to the fullest permissible extent the intent and agreements of the parties herein set forth.

**dd. Assignment Of Antitrust Claims**

As consideration for the award and execution of this contract by the State, the vendor hereby grants, conveys, sells, assigns, and transfers to the State of Delaware all of its right, title and interest in and to all known or unknown causes of action it presently has or may now or hereafter acquire under the antitrust laws of the United States and the State of Delaware, regarding the specific goods or services purchased or acquired for the State pursuant to this contract. Upon either the State's or the vendor notice of the filing of or reasonable likelihood of filing of an action under the antitrust laws of the United States or the State of Delaware, the State and vendor shall meet and confer about coordination of representation in such action.

**ee. Technology Standards**

The selected vendor shall be responsible for the professional quality, technical accuracy, timely completion, and coordination of all services furnished by it, its subcontractors and its and their principals, officers, employees and agents under this Agreement. Vendor shall provide system diagrams in accordance with State Architecture requirements at <https://dti.delaware.gov/about-dti/boards-and-committees/arb-templates/>. In performing the specified services, vendor shall follow practices consistent with generally accepted professional and technical standards. Vendor shall be responsible for ensuring that all services, products and deliverables furnished pursuant to this Agreement comply with the standards promulgated by the Department of Technology and Information ("DTI") published at <http://dti.delaware.gov/information/standards-policies.shtml>, and as modified from time to time by DTI during the term of this Agreement. Vendor will integrate all delivered services and systems with the DDOE Identity Management System and Single-Sign On system. If any service, product or deliverable furnished pursuant to this Agreement does not conform with DTI standards, vendor shall, at its expense and option either (1) replace it with a conforming equivalent or (2) modify it to conform with DTI standards. Vendor shall be and remain liable in accordance with the terms of this Agreement and applicable law for all damages to DDOE caused by vendor's failure to ensure compliance with DTI standards.

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**ff. Accessibility Standards**

If services or products provided by selected vendor utilize Electronic and Information Technology ("EIT") for information delivery, support, or reporting, vendor shall be responsible for ensuring that any such technology satisfies the Department's Accessibility requirements. In general, all EIT systems must be free of errors and warnings for Level AA of the WCAG 2.0 standard. A complete Statement of Accessibility Requirements for the Department is available at <https://www.doe.k12.de.us/Page/3458>. EIT is defined at FAR 2.101, which is available at <https://www.acquisition.gov/browsefar>. Please note that EIT includes Information Technology, also defined at FAR 2.101.

Vendor must supply a Voluntary Product Accessibility Template ("VPAT") for any EIT supplied, furnished, or created for or on behalf of DDOE by the vendor in the execution of this contract, including any equipment, software, services, or commercial products. An existing VPAT is acceptable as long as it corresponds to the make, model, and revision (in the case of hardware) or major version number (in the case of software) of the relevant EIT. A sample VPAT template is included as an attachment to this RFP. DDOE reserves the right to request an updated VPAT if vendor makes a significant change in hardware, software, or service provider during the term of this Agreement. All VPATs must be approved by DDOE prior to production deployment of EIT.

If any service, product or deliverable furnished pursuant to this Agreement does not conform with the Department's accessibility standards, vendor shall, at its expense and option either (1) modify it to conform, or (2) provide a mechanism for equally effective alternative access. In the case of (2), vendor must submit an Equally Effective Alternative Access Plan ("EEAAP"), which must be approved by the Department. A sample EEAAP template is included as an attachment to this RFP. Vendor shall be and remain liable in accordance with the terms of this Agreement and applicable law for all damages to DDOE caused by vendor's failure to ensure compliance with the Department's published accessibility standards.

**gg. Scope of Agreement**

If the scope of any provision of the contract is determined to be too broad in any respect whatsoever to permit enforcement to its full extent, then such provision shall be enforced to the maximum extent permitted by law, and the parties hereto consent and agree that such scope may be judicially modified accordingly and that the whole of such provisions of the contract shall not thereby fail, but the scope of such provisions shall be curtailed only to the extent necessary to conform to the law.

**hh. Affirmation**

The vendor must affirm that within the past five (5) years the firm or any officer, controlling stockholder, partner, principal, or other person substantially involved in the contracting activities of the business is not currently suspended or debarred and is not a successor, subsidiary, or affiliate of a suspended or debarred business.

**ii. Audit Access to Records**

The vendor shall maintain books, records, documents, and other evidence pertaining to this Contract to the extent and in such detail as shall adequately

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reflect performance hereunder. The vendor agrees to preserve and make available to the State, upon request, such records for a period of five (5) years from the date services were rendered by the vendor. Records involving matters in litigation shall be retained for one (1) year following the termination of such litigation. The vendor agrees to make such records available for inspection, audit, or reproduction to any official State representative in the performance of their duties under the Contract. Upon notice given to the vendor, representatives of the State or other duly authorized State or Federal agency may inspect, monitor, and/or evaluate the cost and billing records or other material relative to this Contract. The cost of any Contract audit disallowances resulting from the examination of the vendor's financial records will be borne by the vendor. Reimbursement to the State for disallowances shall be drawn from the vendor's own resources and not charged to Contract cost or cost pools indirectly charging Contract costs.

**jj. IRS 1075 Publication**

**1. Performance**

In performance of this contract, the Contractor agrees to comply with and assume responsibility for compliance by his or her employees with the following requirements:

All work will be performed under the supervision of the contractor or the contractor's responsible employees.

The contractor and the contractor's employees with access to or who use FTI must meet the background check requirements defined in IRS Publication 1075.

Any Federal tax returns or Federal tax return information (hereafter referred to as returns or return information) made available shall be used only for the purpose of carrying out the provisions of this contract. Information contained in such material shall be treated as confidential and shall not be divulged or made known in any manner to any person except as may be necessary in the performance of this contract. Inspection by or disclosure to anyone other than an officer or employee of the contractor is prohibited.

All returns and return information will be accounted for upon receipt and properly stored before, during, and after processing. In addition, all related output and products will be given the same level of protection as required for the source material.

No work involving returns and return information furnished under this contract will be subcontracted without prior written approval of the IRS.

The contractor will maintain a list of employees authorized access. Such list will be provided to the agency and, upon request, to the IRS reviewing office.

The agency will have the right to void the contract if the contractor fails to provide the safeguards described above.

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The contractor shall comply with agency incident response policies and procedures for reporting unauthorized disclosures of agency data.

## **2. Criminal/Civil Sanctions**

Each officer or employee of any person to whom returns or return information is or may be disclosed shall be notified in writing by such person that returns or return information disclosed to such officer or employee can be used only for a purpose and to the extent authorized herein, and that further disclosure of any such returns or return information for a purpose or to an extent unauthorized herein constitutes a felony punishable upon conviction by a fine of as much as \$5,000 or imprisonment for as long as five years, or both, together with the costs of prosecution. Such person shall also notify each such officer and employee that any such unauthorized future disclosure of returns or return information may also result in an award of civil damages against the officer or employee in an amount not less than \$1,000 with respect to each instance of unauthorized disclosure. These penalties are prescribed by IRCs 7213 and 7431 and set forth at 26 CFR 301.6103(n)-1.

Each officer or employee of any person to whom returns or return information is or may be disclosed shall be notified in writing by such person that any return or return information made available in any format shall be used only for the purpose of carrying out the provisions of this contract. Information contained in such material shall be treated as confidential and shall not be divulged or made known in any manner to any person except as may be necessary in the performance of this contract. Inspection by or disclosure to anyone without an official need-to-know constitutes a criminal misdemeanor punishable upon conviction by a fine of as much as \$1,000.00 or imprisonment for as long as 1 year, or both, together with the costs of prosecution. Such person shall also notify each such officer and employee that any such unauthorized inspection or disclosure of returns or return information may also result in an award of civil damages against the officer or employee [United States for Federal employees] in an amount equal to the sum of the greater of \$1,000.00 for each act of unauthorized inspection or disclosure with respect to which such defendant is found liable or the sum of the actual damages sustained by the plaintiff as a result of such unauthorized inspection or disclosure plus in the case of a willful inspection or disclosure which is the result of gross negligence, punitive damages, plus the costs of the action. The penalties are prescribed by IRCs 7213A and 7431 and set forth at 26 CFR 301.6103(n)-1.

Additionally, it is incumbent upon the contractor to inform its officers and employees of the penalties for improper disclosure imposed by the Privacy Act of 1974, 5 U.S.C. 552a. Specifically, 5 U.S.C. 552a(i)(1), which is made applicable to contractors by 5 U.S.C. 552a(m)(1), provides that any officer or employee of a contractor, who by virtue of his/her employment or official position, has possession of or access to agency records which contain individually identifiable information, the disclosure of which is prohibited by the Privacy Act or regulations established thereunder, and who knowing that disclosure of the specific material is so prohibited, willfully discloses the material in any manner to any person or agency not entitled to receive it, shall be guilty of a misdemeanor and fined not more than \$5,000.

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Granting a contractor access to FTI must be preceded by certifying that each individual understands the agency's security policy and procedures for safeguarding IRS information. Contractors must maintain their authorization to access FTI through annual recertification. The initial certification and recertification must be documented and placed in the agency's files for review. As part of the certification and at least annually afterwards, contractors must be advised of the provisions of IRCs 7431, 7213, and 7213A (see Exhibit 4, Sanctions for Unauthorized Disclosure, and Exhibit 5, Civil Damages for Unauthorized Disclosure). The training provided before the initial certification and annually thereafter must also cover the incident response policy and procedure for reporting unauthorized disclosures and data breaches. (See Section 10 ) For both the initial certification and the annual certification, the contractor must sign, either with ink or electronic signature, a confidentiality statement certifying their understanding of the security requirements.

### 3. Inspection

The IRS and the Agency, with 24 hour notice, shall have the right to send its inspectors into the offices and plants of the contractor to inspect facilities and operations performing any work with FTI under this contract for compliance with requirements defined in IRS Publication 1075. The IRS' right of inspection shall include the use of manual and/or automated scanning tools to perform compliance and vulnerability assessments of information technology (IT) assets that access, store, process or transmit FTI. On the basis of such inspection, corrective actions may be required in cases where the contractor is found to be noncompliant with contract safeguards.

#### kk. Other General Conditions

1. **Current Version** – “Packaged” application and system software shall be the most current version generally available as of the date of the physical installation of the software.
2. **Current Manufacture** – Equipment specified and/or furnished under this specification shall be standard products of manufacturers regularly engaged in the production of such equipment and shall be the manufacturer's latest design. All material and equipment offered shall be new and unused.
3. **Volumes and Quantities** – Activity volume estimates and other quantities have been reviewed for accuracy; however, they may be subject to change prior or subsequent to award of the contract.
4. **Prior Use** – The State of Delaware reserves the right to use equipment and material furnished under this proposal prior to final acceptance. Such use shall not constitute acceptance of the work or any part thereof by the State of Delaware.
5. **Status Reporting** – The selected vendor will be required to lead and/or participate in status meetings and submit status reports covering such items as progress of work being performed, milestones attained, resources expended, problems encountered and corrective action taken, until final system acceptance.
6. **Regulations** – All equipment, software and services must meet all applicable local, State and Federal regulations in effect on the date of the contract.

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7. **Assignment** – Any resulting contract shall not be assigned except by express prior written consent from the Agency.
8. **Changes** – No alterations in any terms, conditions, delivery, price, quality, or specifications of items ordered will be effective without the written consent of the State of Delaware.
9. **Billing** – The successful vendor is required to "Bill as Shipped" to the respective ordering agency(s). Ordering agencies shall provide contract number, ship to and bill to address, contact name and phone number.
10. **Payment** – The State reserves the right to pay by Automated Clearing House (ACH), Purchase Card (P-Card), or check. The agencies will authorize and process for payment of each invoice within thirty (30) days after the date of receipt of a correct invoice. Vendors are invited to offer in their proposal value added discounts (i.e. speed to pay discounts for specific payment terms). Cash or separate discounts should be computed and incorporated as invoiced.
11. **W-9** - The State of Delaware requires completion of the Delaware Substitute Form W-9 through the Supplier Public Portal at <https://esupplier.erp.delaware.gov> to make payments to vendors. Successful completion of this form enables the creation of a State of Delaware vendor record.
12. **Purchase Orders** – Agencies that are part of the First State Financial (FSF) system are required to identify the contract number **2021-01** on all Purchase Orders (P.O.) and shall complete the same when entering P.O. information in the state's financial reporting system.
13. **Purchase Card** – The State of Delaware intends to maximize the use of the P-Card for payment for goods and services provided under contract. Vendors shall not charge additional fees for acceptance of this payment method and shall incorporate any costs into their proposals. Additionally there shall be no minimum or maximum limits on any P-Card transaction under the contract.
14. **Additional Terms and Conditions** – The State of Delaware reserves the right to add terms and conditions during the contract negotiations.

## VI. RFP Miscellaneous Information

### 1. No Press Releases or Public Disclosure

The State of Delaware reserves the right to pre-approve any news or broadcast advertising releases concerning this solicitation, the resulting contract, the work performed, or any reference to the State of Delaware with regard to any project or contract performance. Any such news or advertising releases pertaining to this solicitation or resulting contract shall require the prior express written permission of the State of Delaware.

The State will not prohibit or otherwise prevent the awarded vendor(s) from direct marketing to the State of Delaware agencies, departments, municipalities, and/or any other political subdivisions, however, the vendor shall not use the State's seal or imply preference for the solution or goods provided.

### 2. Definitions of Requirements

To prevent any confusion about identifying requirements in this RFP, the following definition is offered: The words *shall*, *will* and/or *must* are used to designate a

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mandatory requirement. Vendors must respond to all mandatory requirements presented in the RFP. Failure to respond to a mandatory requirement may cause the disqualification of your proposal.

**3. Production Environment Requirements**

The State of Delaware requires that all hardware, system software products, and application software products included in proposals be currently in use in a production environment by a least three other customers, have been in use for at least six months, and have been generally available from the manufacturers for a period of six months. Unreleased or beta test hardware, system software, or application software will not be acceptable.

**VII. Attachments**

The following attachments and appendixes shall be considered part of the solicitation:

- Attachment 1 – No Proposal Reply Form
- Attachment 2 – Non-Collusion Statement
- Attachment 3 – Exceptions
- Attachment 4 – Confidentiality and Proprietary Information
- Attachment 5 – Business References
- Attachment 6 – Subcontractor Information Form
- Attachment 7 – Office of Supplier Diversity Application – FOR INFORMATION PURPOSES ONLY – THIS IS NOT REQUIRED AS PART OF A RESPONSE TO THIS SOLICITATION.
- Attachment 8 – Delaware Department of Education Standard Contract Template
- Attachment 9 – Cyber Responsibilities, Liability and Insurance
- Attachment 10 – Delaware Data Usage Terms and Conditions
- Attachment 11 – Delaware Cloud Services Terms and Conditions
- Appendix A – Minimum Response Requirements
- Appendix B – Scope of Work / Technical Requirements
- Appendix C – Vendor Response Document

*[balance of page is intentionally left blank]*

**IMPORTANT – PLEASE NOTE**

- **Attachments 2, 3, 4, and 5 must be included in your proposal**
- Attachment 6 must be included in your proposal if subcontractors will be involved

**REQUIRED REPORTING**

One of the primary goals in administering this contract is to keep accurate records regarding its actual value/usage. This information is essential in order to update the contents of the contract and to establish proper bonding levels if they are required. The integrity of future contracts revolves around our ability to convey accurate and realistic information to all interested parties.

In accordance with Executive Order 44, the State of Delaware is committed to supporting its diverse business industry and population. The successful vendor will be required to accurately report on the participation by Diversity Suppliers which includes: minority (MBE), woman (WBE), veteran owned business (VOBE), or service disabled veteran owned business (SDVOBE) under this awarded contract. The reported data elements shall include but not be limited to; name of state contract/project, the name of the Diversity Supplier, Diversity Supplier contact information (phone, email), type of product or service provided by the Diversity Supplier and any minority, women, veteran, or service disabled veteran certifications for the subcontractor (State OSD certification, Minority Supplier Development Council, Women's Business Enterprise Council, VetBiz.gov).

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Attachment 1

NO PROPOSAL REPLY FORM

Contract No. 2021-01

Contract Title: Content Filtering &  
Student Safety RFP

To assist us in obtaining good competition on our Request for Proposals, we ask that each firm that has received a proposal, but does not wish to bid, state their reason(s) below and return in a clearly marked envelope displaying the contract number. This information will not preclude receipt of future invitations unless you request removal from the vendor's list by so indicating below, or do not return this form or bona fide proposal.

Unfortunately, we must offer a "No Proposal" at this time because:

- \_\_\_\_\_ 1. We do not wish to participate in the proposal process.
- \_\_\_\_\_ 2. We do not wish to bid under the terms and conditions of the Request for Proposal document.  
Our objections are:  
\_\_\_\_\_  
\_\_\_\_\_
- \_\_\_\_\_ 3. We do not feel we can be competitive.
- \_\_\_\_\_ 4. We cannot submit a Proposal because of the marketing or franchising policies of the  
manufacturing company.
- \_\_\_\_\_ 5. We do not wish to sell to the State. Our objections are:  
\_\_\_\_\_  
\_\_\_\_\_
- \_\_\_\_\_ 6. We do not sell the items/services on which Proposals are requested.
- \_\_\_\_\_ 7. Other: \_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
FIRM NAME

\_\_\_\_\_  
SIGNATURE

\_\_\_\_\_ We wish to remain on the vendor's list **for these goods or services.**

\_\_\_\_\_ We wish to be deleted from the vendor's list **for these goods or services.**

**PLEASE FORWARD NO PROPOSAL REPLY FORM TO THE CONTRACT OFFICER IDENTIFIED.**

**CONTRACT NO.:** 2021-01  
**CONTRACT TITLE:** Content Filtering & Student Safety RFP  
**DEADLINE TO RESPOND:** September 9, 2020 at 2:00 PM (Local Time)

**NON-COLLUSION STATEMENT**

This is to certify that the undersigned vendor has neither directly nor indirectly, entered into any agreement, participated in any collusion or otherwise taken any action in restraint of free competitive bidding in connection with this proposal, **and further certifies that it is not a sub-contractor to another vendor who also submitted a proposal as a primary vendor in response to this solicitation** submitted this date to the State of Delaware, Department of Education.

It is agreed by the undersigned vendor that the signed delivery of this bid represents, subject to any express exceptions set forth at Attachment 3, the vendor's acceptance of the terms and conditions of this solicitation including all specifications and special provisions.

**NOTE:** Signature of the authorized representative **MUST** be of an individual who legally may enter his/her organization into a formal contract with the State of Delaware, Department of Education.

COMPANY NAME \_\_\_\_\_ Check one)

NAME OF AUTHORIZED REPRESENTATIVE  
(Please type or print) \_\_\_\_\_

<input type="checkbox"/>	Corporation
<input type="checkbox"/>	Partnership
<input type="checkbox"/>	Individual

SIGNATURE \_\_\_\_\_ TITLE \_\_\_\_\_

COMPANY ADDRESS \_\_\_\_\_

PHONE NUMBER \_\_\_\_\_ FAX NUMBER \_\_\_\_\_

EMAIL ADDRESS \_\_\_\_\_

FEDERAL E.I. NUMBER \_\_\_\_\_ STATE OF DELAWARE  
LICENSE NUMBER \_\_\_\_\_

COMPANY CLASSIFICATIONS:  CERT. NO.:	Certification type(s)	Circle all that apply	
	Minority Business Enterprise (MBE)	Yes	No
	Woman Business Enterprise (WBE)	Yes	No
	Disadvantaged Business Enterprise (DBE)	Yes	No
	Veteran Owned Business Enterprise (VOBE)	Yes	No
	Service Disabled Veteran Owned Business Enterprise (SDVOBE)	Yes	No

[The above table is for informational and statistical use only.]

PURCHASE ORDERS SHOULD BE SENT TO:  
(COMPANY NAME) \_\_\_\_\_

ADDRESS \_\_\_\_\_

CONTACT \_\_\_\_\_

PHONE NUMBER \_\_\_\_\_ FAX NUMBER \_\_\_\_\_

EMAIL ADDRESS \_\_\_\_\_

**AFFIRMATION:** Within the past five years, has your firm, any affiliate, any predecessor company or entity, owner, Director, officer, partner or proprietor been the subject of a Federal, State, Local government suspension or debarment?

YES \_\_\_\_\_ NO \_\_\_\_\_ if yes, please explain \_\_\_\_\_

**THIS PAGE SHALL HAVE ORIGINAL SIGNATURE, BE NOTARIZED AND BE RETURNED WITH YOUR PROPOSAL**

SWORN TO AND SUBSCRIBED BEFORE ME this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_

Notary Public \_\_\_\_\_ My commission expires \_\_\_\_\_

City of \_\_\_\_\_ County of \_\_\_\_\_ State of \_\_\_\_\_

### Attachment 3

**Contract Title: Content Filtering & Student Safety RFP**

Proposals must include all exceptions to the specifications, terms or conditions contained in this RFP. If the vendor is submitting the proposal without exceptions, please state so below.

[illegible]

Approved by Legal Counsel 1/29/2020

**Contract No. 2021-01**

**Contract Title: Content Filtering & Student Safety RFP**

**CONFIDENTIAL INFORMATION FORM**

☐ By checking this box, the vendor acknowledges that they are not providing any information they declare to be confidential or proprietary for the purpose of production under 29 Del. C. ch. 100, Delaware Freedom of Information Act.

<b>Confidentiality and Proprietary Information</b>

**Note: Vendor may use additional pages as necessary, but the format shall be the same as provided above.**

**Contract No. 2021-01**

**Contract Title: Content Filtering & Student Safety RFP**

**BUSINESS REFERENCES**

List a minimum of three business references, including the following information:

- Business Name and Mailing address
- Contact Name and phone number
- Number of years doing business with
- Type of work performed

Please do not list any State Employee as a business reference. If you have held a State contract within the last 5 years, please provide a separate list of the contract(s).

1. **Contact Name & Title:**

**Business Name:**

**Address:**

**Email:**

**Phone # / Fax #:**

**Current Vendor (YES or NO):**

**Years Associated & Type of  
Work Performed:**


2. **Contact Name & Title:**

**Business Name:**

**Address:**

**Email:**

**Phone # / Fax #:**

**Current Vendor (YES or NO):**

**Years Associated & Type of  
Work Performed:**


3. **Contact Name & Title:**

**Business Name:**

**Address:**

**Email:**

**Phone # / Fax #:**

**Current Vendor (YES or NO):**

**Years Associated & Type of  
Work Performed:**


**STATE OF DELAWARE PERSONNEL MAY NOT BE USED AS REFERENCES.**

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Attachment 6

**SUBCONTRACTOR INFORMATION FORM**

<b>PART I – STATEMENT BY PROPOSING VENDOR</b>		
1. CONTRACT NO. <b>2021-01</b>	2. Proposing Vendor Name:	3. Mailing Address
4. SUBCONTRACTOR		
a. NAME	4c. Company OSD Classification:  Certification Number: _____	
b. Mailing Address:	<div style="display: flex; justify-content: space-between;"> <div> 4d. Women Business Enterprise  4e. Minority Business Enterprise  4f. Disadvantaged Business Enterprise  4g. Veteran Owned Business Enterprise  4h. Service Disabled Veteran Owned Business Enterprise </div> <div> <input type="checkbox"/> Yes <input type="checkbox"/> No  <input type="checkbox"/> Yes <input type="checkbox"/> No  <input type="checkbox"/> Yes <input type="checkbox"/> No  <input type="checkbox"/> Yes <input type="checkbox"/> No  <input type="checkbox"/> Yes <input type="checkbox"/> No </div> </div>	
5. DESCRIPTION OF WORK BY SUBCONTRACTOR		
6a. NAME OF PERSON SIGNING	7. BY ( <i>Signature</i> )	8. DATE SIGNED
6b. TITLE OF PERSON SIGNING		
<b>PART II – ACKNOWLEDGEMENT BY SUBCONTRACTOR</b>		
9a. NAME OF PERSON SIGNING	10. BY ( <i>Signature</i> )	11. DATE SIGNED
9b. TITLE OF PERSON SIGNING		

**\* Use a separate form for each subcontractor**



**The Office of Supplier Diversity (OSD) has moved to the  
Division of Small Business (DSB)**

Supplier Diversity Applications can be found here:  
<https://gss.omb.delaware.gov/osd/>

Completed Applications can be emailed to: [OSD@Delaware.gov](mailto:OSD@Delaware.gov)

For more information, please send an email to OSD:  
[OSD@Delaware.gov](mailto:OSD@Delaware.gov) or call 302-577-8477

Self-Register to receive business development information here:  
<http://directory.osd.gss.omb.delaware.gov/self-registration.shtml>

**New Address for OSD:**

Office of Supplier Diversity (OSD)  
State of Delaware  
Division of Small Business  
820 N. French Street, 10<sup>th</sup> Floor  
Wilmington, DE 19801

Telephone: 302-577-8477 Fax: 302-736-7915  
Email: [OSD@Delaware.gov](mailto:OSD@Delaware.gov)  
Web site: <https://gss.omb.delaware.gov/osd/>

**Dover address for the Division of Small Business**

**Local applicants may drop off applications here:**

Division of Small Business  
99 Kings Highway  
Dover, DE 19901  
Phone: 302-739-4271

Submission of a completed Office of Supplier Diversity (OSD) application is optional and does not influence the outcome of any award decision.

## Delaware Department of Education Contract

\_\_\_\_\_ RFP# \_\_\_\_\_

This Agreement ("Agreement") is effective only upon the execution of a State of Delaware Purchase Order and will end on \_\_\_\_\_, **20**\_\_\_\_\_, by and between the State of Delaware, Department of Education, hereafter referred to as DDOE or "Department", and VENDOR, (VENDOR).

WHEREAS, DDOE desires to obtain certain services to \_\_\_\_\_; and

WHEREAS, VENDOR desires to provide such services to DDOE on the terms set forth below;

WHEREAS, DDOE and VENDOR represent and warrant that each party has full right, power and authority to enter into and perform under this Agreement;

FOR AND IN CONSIDERATION OF the premises and mutual agreements herein, DDOE and VENDOR agree as follows:

### 1. **Services.**

1.1 VENDOR shall perform for DDOE the services specified in the Appendices to this Agreement, attached hereto and made a part hereof.

1.2 Any conflict or inconsistency between the provisions of the following documents shall be resolved by giving precedence to such documents in the following order: (a) this Agreement (including any amendments or modifications thereto); (b) DDOE's request for proposals, attached hereto as Appendix \_\_\_\_\_; and (c) VENDOR's response to the request for proposals, attached hereto as Appendix \_\_\_\_\_. The aforementioned documents are specifically incorporated into this Agreement and made a part hereof.

1.3 DDOE may, at any time, by written order, make changes in the scope of this Agreement and in the services or work to be performed. No services for which additional compensation may be charged by VENDOR shall be furnished without the written authorization of DDOE. When DDOE desires any addition or deletion to the deliverables or a change in the Services to be provided under this Agreement, it shall notify VENDOR, who shall then submit to DDOE a "Change Order" for approval authorizing said change. The Change Order shall state whether the change shall cause an alteration in the price or the time required by VENDOR for any aspect of its performance under this Agreement. Pricing of changes shall be consistent with those established within this Agreement.

1.4 VENDOR will not be required to make changes to its scope of work that result in VENDOR's costs exceeding the current unencumbered budgeted appropriations for the services. Any claim of either party for an adjustment under Section 1 of this Agreement shall be asserted in the manner specified in the writing that authorizes the adjustment.

### 2. **Payment for Services and Expenses.**

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2.1 The Services contemplated in this Agreement shall be completed no later than \_\_\_\_\_, 20\_\_\_\_\_.

2.2 DDOE will pay VENDOR for the performance of services described in Appendix A, Statement of Work. The fee will be paid in accordance with the payment schedule attached hereto as part of Appendix \_\_\_\_\_.

2.3 DDOE's obligation to pay VENDOR for the performance of services described in Appendix A, Statement of Work will not exceed the fixed fee amount of \$\_\_\_\_\_. It is expressly understood that the work defined in the appendices to this Agreement must be completed by VENDOR and it shall be VENDOR's responsibility to ensure that hours and tasks are properly budgeted so that all services are completed for the agreed upon fixed fee. DDOE's total liability for all charges for services that may become due under this Agreement is limited to the total maximum expenditure(s) authorized in DDOE's purchase order(s) to VENDOR.

2.4 VENDOR shall submit monthly invoices to DDOE in sufficient detail to support the services provided during the previous month. DDOE agrees to pay those invoices within thirty (30) days of receipt. In the event DDOE disputes a portion of an invoice, DDOE agrees to pay the undisputed portion of the invoice within thirty (30) days of receipt and to provide VENDOR a detailed statement of DDOE's position on the disputed portion of the invoice within thirty (30) days of receipt.

2.5 Unless provided otherwise in an Appendix, all expenses incurred in the performance of the services are to be paid by VENDOR. If an Appendix specifically provides for expense reimbursement, VENDOR shall be reimbursed only for reasonable expenses incurred by VENDOR in the performance of the services, including, but not necessarily limited to, travel and lodging expenses, communications charges, and computer time and supplies.

2.6 DDOE is a sovereign entity, and shall not be liable for the payment of federal, state and local sales, use and excise taxes, including any interest and penalties from any related deficiency, which may become due and payable as a consequence of this Agreement.

2.7 DDOE shall subtract from any payment made to VENDOR all damages, costs and expenses caused by VENDOR's negligence, resulting from or arising out of errors or omissions in VENDOR's work products, which have not been previously paid to VENDOR.

2.8 Invoices shall be submitted to:

**3. Responsibilities of VENDOR.**

3.1 VENDOR shall be responsible for the professional quality, technical accuracy, timely completion, and coordination of all services furnished by VENDOR, its subcontractors and its and their principals, officers, employees and agents under this Agreement. In performing the specified services, VENDOR shall follow practices consistent with generally accepted professional and technical standards. VENDOR shall be responsible for ensuring that all services, products and deliverables furnished pursuant to this Agreement comply with the standards promulgated by the Department of Technology and Information ("DTI") published at <http://dti.delaware.gov/>, and as modified from time to time by DTI during the term of this Agreement. If any service, product or deliverable furnished pursuant to this Agreement does not conform with DTI standards, VENDOR shall, at its expense and option either (1) replace it with a conforming equivalent or (2) modify it to

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conform with DTI standards. VENDOR shall be and remain liable in accordance with the terms of this Agreement and applicable law for all damages to DDOE caused by VENDOR's failure to ensure compliance with DTI standards.

3.2 Accessibility requirements – Any electronic or information technology developed for or on behalf of DDOE shall have no errors or warnings for WCAG 2.0 Level AA success criteria unless has an exception in writing. Reviewable issues are permitted. VENDOR may be asked to provide documentation to show that delivered work product satisfies all applicable accessibility criteria. DDOE reserves the right to audit the work product at any time for accessibility compliance, and any issues found will be the responsibility of VENDOR to remediate.

3.3 It shall be the duty of VENDOR to assure that all products of its effort are technically sound and in conformance with all pertinent Federal, State and Local statutes, codes, ordinances, resolutions and other regulations. VENDOR will not produce a work product that violates or infringes on any copyright or patent rights. VENDOR shall, without additional compensation, correct or revise any errors or omissions in its work products.

3.4 Permitted or required approval by DDOE of any products or services furnished by VENDOR shall not in any way relieve VENDOR of responsibility for the professional and technical accuracy and adequacy of its work. DDOE's review, approval, acceptance, or payment for any of VENDOR's services herein shall not be construed to operate as a waiver of any rights under this Agreement or of any cause of action arising out of the performance of this Agreement, and VENDOR shall be and remain liable in accordance with the terms of this Agreement and applicable law for all damages to DDOE caused by VENDOR's performance or failure to perform under this Agreement.

3.5 Prior to performing any work under this Agreement, VENDOR and VENDOR's employees and agents shall submit to any criminal history or other background checks that may be requested by DDOE. DDOE may refuse access to any DDOE facility or to any sensitive information possessed or controlled by DDOE for any person whose criminal history or background check results are not acceptable to DDOE, in its sole and absolute discretion. The positions anticipated include:

Project	Team	Title	% of Project Involvement
---------	------	-------	--------------------------

3.6 Designation of persons for each position is subject to review and approval by DDOE. Should the staff need to be diverted off the project for what are now unforeseeable circumstances, VENDOR will notify DDOE immediately and work out a transition plan that is acceptable to both parties, as well as agree to an acceptable replacement plan to fill or complete the work assigned to this project staff position. Replacement staff persons are subject to review and approval by DDOE. If VENDOR fails to make a required replacement within 30 days, DDOE may terminate this Agreement for default. Upon receipt of written notice from DDOE that an employee of VENDOR is unsuitable to DDOE for good cause, VENDOR shall remove such employee from the performance of services and substitute in his/her place a suitable employee.

3.7 VENDOR shall furnish to DDOE's designated representative copies of all correspondence to regulatory agencies for review prior to mailing such correspondence.

3.8 VENDOR agrees that its officers and employees will cooperate with DDOE in the performance of services under this Agreement and will be available for consultation with

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DDOE at such reasonable times with advance notice as to not conflict with their other responsibilities.

3.9 VENDOR has or will retain such employees as it may need to perform the services required by this Agreement. Such employees shall not be employed by the State of Delaware or any other political subdivision of the State.

3.10 VENDOR will not use DDOE's name, either express or implied, in any of its advertising or sales materials without DDOE's express written consent.

3.11 The rights and remedies of DDOE provided for in this Agreement are in addition to any other rights and remedies provided by law.

3.12 Fair Background Check Practices - Pursuant to 29 Del. C. §6909B and effective November 4, 2014 the State does not consider the criminal record, criminal history, credit history or credit score of an applicant for state employment during the initial application process unless otherwise required by State and/or Federal law. Vendors doing business with the State are encouraged to adopt fair background check practices. Vendors can refer to 19 Del. C. §711(g) for applicable established provisions.

Pursuant to 31 Del. C. §309, any vendor, employee or contractor of a vendor, or independent contractor, that, as a result of this solicitation has regular direct access to children, or provides services directly to a child or children, must complete a background check. This mandatory check will consist of a fingerprinted Delaware and national background check completed by the State Bureau of Identification (SBI) and the Federal Bureau of Investigation (FBI) as well as a Child Protection Registry check completed by the Department of Services for Children, Youth and Their Families (DSCYF). No work can begin until these requirements have been successfully met.

3.13 By signing this contract, any individual, business, organization, corporation, consortium, partnership, joint venture, or any other entity including subcontractors certify they are not currently debarred or suspended by another governmental entity.

If placed on any debarment or suspension list, VENDOR must immediately notify the Delaware Department of Education.

**4. Time Schedule.**

4.1 A project schedule is included in Appendix .

4.2 Any delay of services or change in sequence of tasks must be approved in writing by DDOE.

4.3 In the event that VENDOR fails to complete the project or any phase thereof within the time specified in the Agreement, or with such additional time as may be granted in writing by DDOE, or fails to prosecute the work, or any separable part thereof, with such diligence as will insure its completion within the time specified in this Agreement or any extensions thereof, DDOE shall suspend the payments scheduled as set forth in Appendix .

**5. State Responsibilities.**

5.1 In connection with VENDOR's provision of the Services, DDOE shall perform those tasks and fulfill those responsibilities specified in the appropriate Appendices.

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5.2 DDOE agrees that its officers and employees will cooperate with **VENDOR** in the performance of services under this Agreement and will be available for consultation with **VENDOR** at such reasonable times with advance notice as to not conflict with their other responsibilities.

5.3 The services performed by **VENDOR** under this Agreement shall be subject to review for compliance with the terms of this Agreement by DDOE's designated representatives. DDOE representatives may delegate any or all responsibilities under the Agreement to appropriate staff members, and shall so inform **VENDOR** by written notice before the effective date of each such delegation.

5.4 The review comments of DDOE's designated representatives may be reported in writing as needed to **VENDOR**. It is understood that DDOE's representatives' review comments do not relieve **VENDOR** from the responsibility for the professional and technical accuracy of all work delivered under this Agreement.

5.5 DDOE shall, without charge, furnish to or make available for examination or use by **VENDOR** as it may request, any data which DDOE has available, including as examples only and not as a limitation:

- a. Copies of reports, surveys, records, and other pertinent documents;
- b. Copies of previously prepared reports, job specifications, surveys, records, ordinances, codes, regulations, other document, and information related to the services specified by this Agreement.

**VENDOR** shall return any original data provided by DDOE.

5.6 DDOE shall assist **VENDOR** in obtaining data on documents from public officers or agencies and from private citizens and business firms whenever such material is necessary for the completion of the services specified by this Agreement.

5.7 **VENDOR** will not be responsible for accuracy of information or data supplied by DDOE or other sources to the extent such information or data would be relied upon by a reasonably prudent contractor.

5.8 DDOE agrees not to use **VENDOR's** name, either express or implied, in any of its advertising or sales materials. **VENDOR** reserves the right to reuse the nonproprietary data and the analysis of industry-related information in its continuing analysis of the industries covered.

**6. Work Product.**

Applicable provision will be checked.

6.1 All materials, information, documents, and reports, whether finished, unfinished, or draft, developed, prepared, completed, or acquired by **VENDOR** for DDOE relating to the services to be performed hereunder shall become the property of DDOE and shall be delivered to DDOE's designated representative upon completion or termination of this Agreement, whichever comes first. **VENDOR** shall not be liable for damages, claims, and losses arising out of any reuse of any work products on any other project conducted by DDOE. DDOE shall have the right to reproduce all documentation supplied pursuant to this Agreement.

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☐ 6.2 [Reserved]

OR:

☐ 6.2 VENDOR retains all title and interest to the data it furnished and/or generated pursuant to this Agreement. Retention of such title and interest does not conflict with DDOE's rights to the materials, information and documents developed in performing the project. Upon final payment, DDOE shall have a perpetual, nontransferable, non-exclusive paid-up right and license to use, copy, modify and prepare derivative works of all materials in which VENDOR retains title, whether individually by VENDOR or jointly with DDOE. Any and all source code developed in connection with the services provided will be provided to DDOE, and the aforementioned right and license shall apply to source code. The parties will cooperate with each other and execute such other documents as may be reasonably deemed necessary to achieve the objectives of this Section.

☐ 6.3 [Reserved]

OR:

☐ 6.3 In no event shall VENDOR be precluded from developing for itself, or for others, materials that are competitive with the Deliverables, irrespective of their similarity to the Deliverables. In addition, VENDOR shall be free to use its general knowledge, skills and experience, and any ideas, concepts, know-how, and techniques within the scope of its consulting practice that are used in the course of providing the services.

☐ 6.4 [Reserved]

OR:

☐ 6.4 Notwithstanding anything to the contrary contained herein or in any attachment hereto, any and all intellectual property or other proprietary data owned by VENDOR prior to the effective date of this Agreement ("Preexisting Information") shall remain the exclusive property of VENDOR even if such Preexisting Information is embedded or otherwise incorporated into materials or products first produced as a result of this Agreement or used to develop such materials or products. DDOE's rights under this section shall not apply to any Preexisting Information or any component thereof regardless of form or media.

**7. Confidential Information.**

To the extent permissible under 29 Del. C. § 10001-10007, and as required by 11 Del. C. §4322 and other state and federal laws pertaining to confidentiality the parties to this Agreement shall preserve in strict confidence any information, reports or documents obtained, assembled or prepared in connection with the performance of this Agreement.

**8. Warranty.**

8.1 VENDOR warrants that its services will be performed in a good and workmanlike manner. VENDOR agrees to re-perform any work not in compliance with this warranty brought to its attention within a reasonable time after that work is performed.

8.2 Third-party products within the scope of this Agreement are warranted solely under the terms and conditions of the licenses or other agreements by which such products are governed. With respect to all third-party products and services purchased by VENDOR

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for DDOE in connection with the provision of the Services, **VENDOR** shall pass through or assign to DDOE the rights **VENDOR** obtains from the manufacturers and/or vendors of such products and services (including warranty and indemnification rights), all to the extent that such rights are assignable.

**9. Indemnification; Limitation of Liability.**

9.1 **VENDOR** shall indemnify and hold harmless the State, its agents and employees, from any and all liability, suits, actions or claims, together with all reasonable costs and expenses (including attorneys' fees) directly arising out of (A) the negligence or other wrongful conduct of **VENDOR**, its agents or employees, or (B) **VENDOR's** breach of any material provision of this Agreement not cured after due notice and opportunity to cure, provided as to (A) or (B) that (i) **VENDOR** shall have been notified in writing by DDOE of any notice of such claim; and (ii) **VENDOR** shall have the sole control of the defense of any action on such claim and all negotiations for its settlement or compromise.

9.2 If DDOE notifies **VENDOR** in writing of a third party claim against DDOE that any Deliverable infringes a copyright or a trade secret of any third party, **VENDOR** will defend such claim at its expense and will pay any costs or damages that may be finally awarded against DDOE. **VENDOR** will not indemnify DDOE, however, if the claim of infringement is caused by (1) DDOE's misuse or modification of the Deliverable; (2) DDOE's failure to use corrections or enhancements made available by **VENDOR**; (3) DDOE's use of the Deliverable in combination with any product or information not owned or developed by **VENDOR**; (4) DDOE's distribution, marketing or use for the benefit of third parties of the Deliverable or (5) information, direction, specification or materials provided by Client or any third party. If any Deliverable is, or in **VENDOR's** opinion is likely to be, held to be infringing, **VENDOR** shall at its expense and option either (a) procure the right for DDOE to continue using it, (b) replace it with a noninfringing equivalent, (c) modify it to make it noninfringing. The foregoing remedies constitute DDOE's sole and exclusive remedies and **VENDOR's** entire liability with respect to infringement.

**10. Employees.**

10.1 **VENDOR** has and shall retain the right to exercise full control over the employment, direction, compensation and discharge of all persons employed by **VENDOR** in the performance of the services hereunder; provided, however, that it will, subject to scheduling and staffing considerations, attempt to honor DDOE's request for specific individuals.

10.2 Except as the other party expressly authorizes in writing in advance, neither party shall solicit, offer work to, employ, or contract with, whether as a partner, employee or independent contractor, directly or indirectly, any of the other party's Personnel during their participation in the services or during the twelve (12) months thereafter. For purposes of this Section 10.2, "Personnel" includes any individual or company a party employs as a partner, employee or independent contractor and with which a party comes into direct contact in the course of the services.

10.3 Possession of a Security Clearance, as issued by the Delaware Department of Safety and Homeland Security, may be required of any employee of **VENDOR** who will be assigned to this project.

**11. Independent Contractor.**

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11.1 It is understood that in the performance of the services herein provided for, VENDOR shall be, and is, an independent contractor, and is not an agent or employee of DDOE and shall furnish such services in its own manner and method except as required by this Agreement. VENDOR shall be solely responsible for, and shall indemnify, defend and save DDOE harmless from all matters relating to the payment of its employees, including compliance with social security, withholding and all other wages, salaries, benefits, taxes, exactions, and regulations of any nature whatsoever.

11.2 VENDOR acknowledges that VENDOR and any subcontractors, agents or employees employed by VENDOR shall not, under any circumstances, be considered employees of DDOE, and that they shall not be entitled to any of the benefits or rights afforded employees of DDOE, including, but not limited to, sick leave, vacation leave, holiday pay, Public Employees Retirement System benefits, or health, life, dental, long-term disability or workers' compensation insurance benefits. DDOE will not provide or pay for any liability or medical insurance, retirement contributions or any other benefits for or on behalf of DDOE or any of its officers, employees or other agents.

11.3 VENDOR shall be responsible for providing liability insurance for its personnel.

11.4 As an independent contractor, VENDOR has no authority to bind or commit DDOE. Nothing herein shall be deemed or construed to create a joint venture, partnership, fiduciary or agency relationship between the parties for any purpose.

**12. Dispute Resolution.**

12.1 At the option of the parties, they shall attempt in good faith to resolve any dispute arising out of or relating to this Agreement by negotiation between executives who have authority to settle the controversy and who are at a higher level of management than the persons with direct responsibility for administration of this Agreement. All offers, promises, conduct and statements, whether oral or written, made in the course of the negotiation by any of the parties, their agents, employees, experts and attorneys are confidential, privileged and inadmissible for any purpose, including impeachment, in arbitration or other proceeding involving the parties, provided evidence that is otherwise admissible or discoverable shall not be rendered inadmissible.

12.2 If the matter is not resolved by negotiation, as outlined above, or, alternatively, DDOE elects to proceed directly to mediation, then the matter will proceed to mediation as set forth below. Any disputes, claims or controversies arising out of or relating to this Agreement shall be submitted to mediation by a mediator selected by the parties. If the matter is not resolved through mediation, it may be submitted for arbitration or litigation. DDOE reserves the right to proceed directly to arbitration or litigation without negotiation or mediation. Any such proceedings held pursuant to this provision shall be governed by Delaware law and venue shall be in Delaware. Each party shall bear its own costs of mediation, arbitration or litigation, including attorneys' fees.

**13. Remedies.**

13.1 Except as otherwise provided in this Agreement, including but not limited to Section 12 above, all claims, counterclaims, disputes, and other matters in question between the State of Delaware and the Contractor arising out of, or relating to, this Agreement, or a breach of it may be decided by arbitration if the parties mutually agree, or in a court of competent jurisdiction within the State of Delaware.

**14. Suspension.**

*Updated 2/24/2020*

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14.1 DDOE may suspend performance by VENDOR under this Agreement for such period of time as DDOE, at its sole discretion, may prescribe by providing written notice to VENDOR at least thirty (30) working days prior to the date on which DDOE wishes to suspend. Upon such suspension, DDOE shall pay VENDOR its compensation, based on the percentage of the project completed and earned until the effective date of suspension, less all previous payments. VENDOR shall not perform further work under this Agreement after the effective date of suspension until receipt of written notice from DDOE to resume performance.

14.2 In the event DDOE suspends performance by VENDOR for any cause other than the error or omission of VENDOR, for an aggregate period in excess of thirty (30) days, VENDOR shall be entitled to an equitable adjustment of the compensation payable to VENDOR under this Agreement to reimburse VENDOR for additional costs occasioned as a result of such suspension of performance by DDOE based on appropriated funds and approval by DDOE.

**15. Termination.**

15.1 This Agreement may be terminated in whole or in part by either party in the event of substantial failure of the other party to fulfill its obligations under this Agreement through no fault of the terminating party; but only after the other party is given:

- a. Not less than thirty (30) calendar days written notice of intent to terminate; and
- b. An opportunity for consultation with the terminating party prior to termination.

15.2 This Agreement may be terminated in whole or in part by DDOE for its convenience, but only after VENDOR is given:

- a. Not less than thirty (30) calendar days written notice of intent to terminate; and
- b. An opportunity for consultation with DDOE prior to termination.

15.3 If termination for default is effected by DDOE, DDOE will pay VENDOR that portion of the compensation which has been earned as of the effective date of termination but:

- a. No amount shall be allowed for anticipated profit on performed or unperformed services or other work, and
- b. Any payment due to VENDOR at the time of termination may be adjusted to the extent of any additional costs occasioned to DDOE by reason of VENDOR's default.
- c. Upon termination for default, DDOE may take over the work and prosecute the same to completion by agreement with another party or otherwise. In the event VENDOR shall cease conducting business, DDOE shall have the right to make an unsolicited offer of employment to any employees of VENDOR assigned to the performance of the Agreement, notwithstanding the provisions of Section 10.2.

15.4 If after termination for failure of VENDOR to fulfill contractual obligations it is determined that VENDOR has not so failed, the termination shall be deemed to have been effected for the convenience of DDOE.

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15.5 The rights and remedies of DDOE and VENDOR provided in this section are in addition to any other rights and remedies provided by law or under this Agreement.

15.6 Gratuities.

- a. DDOE may, by written notice to VENDOR, terminate this Agreement if it is found after notice and hearing by DDOE that gratuities (in the form of entertainment, gifts, or otherwise) were offered or given by VENDOR or any agent or representative of VENDOR to any officer or employee of DDOE with a view toward securing a contract or securing favorable treatment with respect to the awarding or amending or making of any determinations with respect to the performance of this Agreement.
- b. In the event this Agreement is terminated as provided in 14.6.a. hereof, DDOE shall be entitled to pursue the same remedies against VENDOR it could pursue in the event of a breach of this Agreement by VENDOR.
- c. The rights and remedies of DDOE provided in Section 14.6 shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Agreement.

**16. Severability.**

If any term or provision of this Agreement is found by a court of competent jurisdiction to be invalid, illegal or otherwise unenforceable, the same shall not affect the other terms or provisions hereof or the whole of this Agreement, but such term or provision shall be deemed modified to the extent necessary in the court's opinion to render such term or provision enforceable, and the rights and obligations of the parties shall be construed and enforced accordingly, preserving to the fullest permissible extent the intent and agreements of the parties herein set forth.

**17. Assignment; Subcontracts.**

17.1 Any attempt by VENDOR to assign or otherwise transfer any interest in this Agreement without the prior written consent of DDOE shall be void. Such consent shall not be unreasonably withheld.

17.2 Services specified by this Agreement shall not be subcontracted by VENDOR, without prior written approval of DDOE.

17.3 Approval by DDOE of VENDOR's request to subcontract or acceptance of or payment for subcontracted work by DDOE shall not in any way relieve VENDOR of responsibility for the professional and technical accuracy and adequacy of the work. All subcontractors shall adhere to all applicable provisions of this Agreement.

17.4 VENDOR shall be and remain liable for all damages to DDOE caused by negligent performance or non-performance of work under this Agreement by VENDOR, its subcontractor or its sub-subcontractor.

17.5 The compensation due shall not be affected by DDOE's approval of VENDOR's request to subcontract.

**18. Force Majeure.**

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Neither party shall be liable for any delays or failures in performance due to circumstances beyond its reasonable control.

**19. Non-Appropriation of Funds.**

19.1 Validity and enforcement of this Agreement is subject to appropriations by the General Assembly of the specific funds necessary for contract performance. Should such funds not be so appropriated DDOE may immediately terminate this Agreement, and absent such action this Agreement shall be terminated as to any obligation of the State requiring the expenditure of money for which no specific appropriation is available, at the end of the last fiscal year for which no appropriation is available or upon the exhaustion of funds.

19.2 Notwithstanding any other provisions of this Agreement, this Agreement shall terminate and DDOE's obligations under it shall be extinguished at the end of the fiscal year in which the State of Delaware fails to appropriate monies for the ensuing fiscal year sufficient for the payment of all amounts which will then become due.

**20. State of Delaware Business License.**

VENDOR and all subcontractors represent that they are properly licensed and authorized to transact business in the State of Delaware as provided in 30 Del. C. § 2301.

**21. Complete Agreement.**

21.1 This agreement and its Appendices shall constitute the entire agreement between DDOE and VENDOR with respect to the subject matter of this Agreement and shall not be modified or changed without the express written consent of the parties. The provisions of this agreement supersede all prior oral and written quotations, communications, agreements and understandings of the parties with respect to the subject matter of this Agreement.

21.2 If the scope of any provision of this Agreement is too broad in any respect whatsoever to permit enforcement to its full extent, then such provision shall be enforced to the maximum extent permitted by law, and the parties hereto consent and agree that such scope may be judicially modified accordingly and that the whole of such provisions of the Agreement shall not thereby fail, but the scope of such provision shall be curtailed only to the extent necessary to conform to the law.

21.3 VENDOR may not order any product requiring a purchase order prior to DDOE's issuance of such order. Each Appendix, except as its terms otherwise expressly provide, shall be a complete statement of its subject matter and shall supplement and modify the terms and conditions of this Agreement for the purposes of that engagement only. No other agreements, representations, warranties or other matters, whether oral or written, shall be deemed to bind the parties hereto with respect to the subject matter hereof.

**22. Global Interoperability Standards**

DDOE advocates adoption by all suppliers of applicable open interoperability standards provided by the IMS Global Learning Consortium (IMS), the Ed-Fi Alliance (Ed-Fi) and the Common Education Data Standards (CEDS) project in order to enable safe, flexible and rapid integrations. The aforementioned standards are evolving under the governance of member organizations, which includes a majority of leading educational technology suppliers. The paragraph below describes VENDOR agreement to implement, certify, and

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stay current with the latest releases of these standards, so that DDOE is not required to communicate on a standard-by-standard basis the availability and requirement to adopt these standards.

VENDOR agrees that all products DDOE purchases will become certified as compliant with any final version of the aforementioned interoperability standards that are applicable to the products procured within six (6) months of the public release of each standard (or a specific later date if mutually agreed to by the parties), provided that: (a) the proposed modifications to the Product would not create a security, privacy or accessibility compromise; (b) the standard can be implemented with approximately the same amount of development resource as integration approaches of similar scope and thus does not create an undue financial burden on VENDOR; and (c) several other institutions (by direct referral) comparable to DDOE agree that the modifications necessary to the purchased product are desirable. At a minimum, VENDOR shall be required to complete an annual technology roadmap session with DDOE.

**23. Data Privacy, Ownership and Protection Information**

23.1 VENDOR shall adhere to the mandates of federal, state, and local ordinances and statutes, and DDOE policy and regulations, including, but not limited to the Family Educational Rights and Privacy Act (FERPA), Children's Online Privacy Protection Act of 1998 (COPPA), and 15 U.S.C. 6501–6505, with regard to the protection of data made available by DDOE.

23.2 VENDOR shall carefully select the personnel entrusted with the data, inform them about all of the legal aspects of data protection, and oblige them to preserve data secrecy. The obligation shall be made on record and evidence of this shall be provided to DDOE upon its request.

23.3 VENDOR shall be obliged to maintain a comprehensive information security program that is reasonably designed to protect security, privacy, confidentiality, and integrity of data with appropriate administrative, technological, and physical safeguards. VENDOR shall store on encrypted volumes all confidential and sensitive data that is placed on mobile computing devices including laptops. All data transmitted over the Internet must be encrypted.

23.4 Upon DDOE's request or at the latest, upon expiration of the Agreement, all existing data acquired during the term of the Agreement or created as part of the Agreement shall be returned to DDOE or shall be irretrievably deleted by the VENDOR. The deletion shall take place, at the latest, upon the expiry of mandatory data protection law periods. Upon request by DDOE, the deletion is to be confirmed in writing.

23.5 In the event a breach, of the obligations herein detailed or if indications of such a breach exist, VENDOR shall undertake to inform DDOE of the breach without undue delay.

23.6 DDOE or its designee may monitor VENDOR's compliance with the Agreement as it relates to data protection. Such monitoring shall only be available upon the receiver of the data executing a non-disclosure agreement. Additionally, DDOE agrees it will only request additional monitoring if the third party assessment (ISO/ICE 27001 certification) fails to provide satisfaction of compliance with the Agreement.

23.7 VENDOR must provide clear notice to DDOE before making any material changes to VENDOR's privacy policy.

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23.8 DDOE shall be entitled to timely access data and correct data held by VENDOR that is factually incorrect in response to a parent/guardian request.

23.9 VENDOR can only utilize the data for the purposes specifically authorized by DDOE and cannot set up a personal profile of a student unless to support purposes authorized by DDOE.

23.10 VENDOR cannot sell data or use/share data for targeted advertising to students.

23.11 VENDOR cannot re-disclose data to sub-contractors, partners, or other third parties unless expressly authorized by DDOE and subcontractors, partners, or other third parties agree to DDOE's Terms of Use.

23.12 DDOE's confidential information, as provided in Paragraph 7 of this Agreement, and all other confidential information and data relating to DDOE's business are DDOE's exclusive property, and VENDOR therefore agrees that:

- a. All notes, data, reference materials, sketches, drawings, memoranda, disks, documentation and records in any way incorporating or reflecting any of the Confidential Information and all proprietary rights in the Confidential Information, including copyrights, trade secrets and patents shall belong exclusively to DDOE;
- b. At all times while this Agreement is in effect, VENDOR will keep secret and will not disclose to any third party, take or misuse any of DDOE's Confidential Information, or any other confidential information VENDOR acquires or has access to because of its provision of services;
- c. At all times while this Agreement is in effect, VENDOR will not use or seek to use any of DDOE's Confidential Information for VENDOR's own benefit or for the benefit of any other person or business or in any way adverse to DDOE's interests;
- d. On DDOE's request or on termination of this Agreement, VENDOR will return to DDOE all its property, specifically including all documents, disks or other computer media or other materials in VENDOR's possession or control that contain any of DDOE's Confidential Information;
- e. After termination of this Agreement, VENDOR will preserve the secrecy of and will not disclose directly or indirectly to any other person or business any of DDOE's Confidential Information; and
- f. VENDOR will advise DDOE of any unauthorized disclosure or use of DDOE's Confidential Information by any person or entity.

23.13 The State's data ("State Data," which will be treated by VENDOR as Confidential Information) includes: (a) the State's data collected, used, processed, stored, or generated as the result of the Agreement Activities; (b) personally identifiable information ("PII") collected, used, processed, stored, or generated as the result of the Agreement Activities, including, without limitation, any information that identifies an individual, such as an individual's social security number or other government-issued identification number, date of birth, address, telephone number, biometric data, mother's maiden name, email address, credit card information, or an individual's name in combination with any other of

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the elements here listed; and, (c) personal health information ("PHI") collected, used, processed, stored, or generated as the result of the Agreement Activities, which is defined under the Health Insurance Portability and Accountability Act (HIPAA) and its related rules and regulations. State Data is and will remain the sole and exclusive property of the State and all right, title, and interest in the same is reserved by the State. This Section survives the termination of this Agreement.

23.14 VENDOR is provided a limited license to State Data for the sole and exclusive purpose of providing the Agreement Activities, including a license to collect, process, store, generate, and display State Data only to the extent necessary in the provision of the Agreement Activities. VENDOR must: (a) keep and maintain State Data in strict confidence, using such degree of care as is appropriate and consistent with its obligations as further described in this Agreement and applicable law to avoid unauthorized access, use, disclosure, or loss; (b) use and disclose State Data solely and exclusively for the purpose of providing the Agreement Activities, such use and disclosure being in accordance with this Agreement, any applicable Statement of Work, and applicable law; and (c) not use, sell, rent, transfer, distribute, or otherwise disclose or make available State Data for VENDOR's own purposes or for the benefit of anyone other than the State without the State's prior written consent. This Section survives the termination of this Agreement.

23.15 As per the Delaware Department of Technology and Information, VENDOR shall agree to the following provisions:

- a. The State of Delaware shall own all right, title and interest in its data that is related to the services provided by this Agreement. VENDOR shall not access State of Delaware User accounts, or State of Delaware Data, except (i) in the course of data center operations, (ii) response to service or technical issues, (iii) as required by the express terms of this Agreement, or (iv) at State of Delaware's written request.
- b. Protection of personal privacy and sensitive data shall be an integral part of the business activities of VENDOR to ensure that there is no inappropriate or unauthorized use of State of Delaware information at any time. To this end, VENDOR shall safeguard the confidentiality, integrity, and availability of State information and comply with the following conditions:
  - i. All information obtained by VENDOR under this Agreement shall become and remain property of the State of Delaware.
  - ii. At no time shall any data or processes which either belongs to or are intended for the use of State of Delaware or its officers, agents, or employees, be copied, disclosed, or retained by VENDOR or any party related to VENDOR for subsequent use in any transaction that does not include the State of Delaware.

23.16 Upon completion of this agreement, if requested, all data will be returned in an agreed upon format that is predetermined at Agreement signing.

23.17 If the procured product is part of an acquisition or sold off, at the request of DDOE, the Agreement will be considered null and void.

## **24. Miscellaneous Provisions.**

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24.1 In performance of this Agreement, **VENDOR** shall comply with all DDOE policies, applicable federal, state and local laws, ordinances, codes and regulations. **VENDOR** shall solely bear the costs of permits and other relevant costs required in the performance of this Agreement.

24.2 Neither this Agreement nor any appendix may be modified or amended except by the mutual written agreement of the parties. No waiver of any provision of this Agreement shall be effective unless it is in writing and signed by the party against which it is sought to be enforced.

24.3 The delay or failure by either party to exercise or enforce any of its rights under this Agreement shall not constitute or be deemed a waiver of that party's right thereafter to enforce those rights, nor shall any single or partial exercise of any such right preclude any other or further exercise thereof or the exercise of any other right.

24.4 **VENDOR** covenants that it presently has no interest and that it will not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of services required to be performed under this Agreement. **VENDOR** further covenants, to its knowledge and ability, that in the performance of said services no person having any such interest shall be employed.

24.5 **VENDOR** acknowledges that DDOE has an obligation to ensure that public funds are not used to subsidize private discrimination. **VENDOR** recognizes that if they refuse to hire or do business with an individual or company due to reasons of race, color, gender, ethnicity, disability, national origin, age, or any other protected status, DDOE may declare **VENDOR** in breach of the Agreement and terminate the Agreement.

24.6 **VENDOR** warrants that no person or selling agency has been employed or retained to solicit or secure this Agreement upon an agreement or understanding for a commission, or a percentage, brokerage or contingent fee. For breach or violation of this warranty, DDOE shall have the right to annul this Agreement without liability or at its discretion deduct from the Agreement price or otherwise recover the full amount of such commission, percentage, brokerage or contingent fee.

24.7 This Agreement was drafted with the joint participation of both parties and shall be construed neither against nor in favor of either, but rather in accordance with the fair meaning thereof.

24.8 **VENDOR** shall maintain all public records, as defined by 29 Del. C. § 502(8), relating to this Agreement and its deliverables for the time and in the manner specified by the Delaware Division of Archives, pursuant to the Delaware Public Records Law, 29 Del. C. Ch. 5. During the term of this Agreement, authorized representatives of DDOE may inspect or audit **VENDOR**'s performance and records pertaining to this Agreement.

24.9 The State reserves the right to advertise a supplemental solicitation during the term of the Agreement if deemed in the best interest of the State.

**25. Insurance.**

As a part of the contract requirements, the contractor must obtain at its own cost and expense and keep in force and effect during the term of this contract, including all extensions, the minimum coverage limits specified below with a carrier satisfactory to the State. All

STATE OF DELAWARE

Department of Education

contractors must carry the following coverage depending on the type of service or product being delivered.

- a. Worker's Compensation and Employer's Liability Insurance in accordance with applicable law, **and**
- b. Commercial General Liability - \$1,000,000 per person/\$3,000,000 per occurrence, **and**
- c. Automotive Liability Insurance covering all automotive units used in the work (including all units leased from and/or provided by the State to VENDOR pursuant to this Agreement as well as all units used by VENDOR, regardless of the identity of the registered owner, used by VENDOR for completing the Work required by this Agreement to include but not limited to transporting Delaware clients or staff), providing coverage on a primary non-contributory basis with limits of not less than:
  - 1. \$1,000,000 combined single limit each accident, for bodily injury;
  - 2. \$250,000 for property damage to others;
  - 3. \$25,000 per person per accident Uninsured/Underinsured Motorists coverage;
  - 4. \$25,000 per person, \$300,000 per accident Personal Injury Protection (PIP) benefits as provided for in 21 Del. C. §2118; and
  - 5. Comprehensive coverage for all leased vehicles, which shall cover the replacement cost of the vehicle in the event of collision, damage or other loss.

The successful vendor must carry at least one of the following depending on the scope of work being performed.

- a. Medical/Professional Liability - \$1,000,000 per person/\$3,000,000 per occurrence, or
- b. Miscellaneous Errors and Omissions - \$1,000,000 per person/\$3,000,000 per occurrence, or
- c. Product Liability - \$1,000,000 per occurrence/ \$3,000,000 general aggregate.

Should any of the above described policies be cancelled before expiration date thereof, notice will be delivered in accordance with the policy provisions.

Before any work is done pursuant to this Agreement, the Certificate of Insurance and/or copies of the insurance policies, referencing the Agreement number stated herein, shall be filed with the State. The certificate holder is as follows:

Delaware Department of Education  
401 Federal Street, Suite 2  
Dover, DE 19901

Nothing contained herein shall restrict or limit the vendor's right to procure insurance coverage in amounts higher than those required by this Agreement. To the extent that the vendor procures insurance coverage in amounts higher than the amounts required by this Agreement, all said additionally procured coverages will be applicable to any loss or claim and shall replace the insurance obligations contained herein.

To the extent that VENDOR has complied with the terms of this Agreement and has procured insurance coverage for all vehicles leased and/or operated by VENDOR as part

STATE OF DELAWARE

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of this Agreement, the State of Delaware's self-insured insurance program shall not provide any coverage whether coverage is sought as primary, co-primary, excess or umbrella insurer or coverage for any loss of any nature.

In no event shall the State of Delaware be named as an additional insured on any policy required under this agreement.

**26. Assignment of Antitrust Claims.**

As consideration for the award and execution of this Agreement by the State, VENDOR hereby grants, conveys, sells, assigns, and transfers to DDOE all of its right, title and interest in and to all known or unknown causes of action it presently has or may now or hereafter acquire under the antitrust laws of the United States and the State of Delaware, relating to the particular goods or services purchased or acquired by the State pursuant to this Agreement. Upon either DDOE's or the VENDOR notice of the filing of or reasonable likelihood of filing of an action under the antitrust laws of the United States or the State of Delaware, DDOE and VENDOR shall meet and confer about coordination of representation in such action.

**27. Surviving Clauses.**

All indemnification obligations imposed and all licenses and assignments of rights granted under this Agreement shall survive termination

**28. Governing Law.**

This Agreement shall be governed by or construed under the laws of the State of Delaware, without regard to principles of conflict of laws, except where Federal law has precedence. The laws of the State of Delaware shall govern, in whole or in part, any or all of their rights, remedies, liabilities, powers and duties of the parties, either as provided by law or in the manner specified in this Agreement. VENDOR consents to service of process within the State of Delaware.

**29. Notices.**

Any and all notices required by the provisions of this Agreement shall be in writing and shall be mailed, certified or registered mail, return receipt requested. All notices shall be sent to the following addresses:

CONTRACTOR: VENDOR

DDOE:

Associate Secretary, Operations Support  
Delaware Department of Education  
John G. Townsend Building  
401 Federal Street, Suite 2  
Dover, DE 19901  
Phone No. (302) 735-4040  
Fax No. (302) 739-7768

STATE OF DELAWARE  
Department of Education  
DOE Certificated Staff coordinating activity:

\_\_\_\_\_

Next Page for Signatures.

STATE OF DELAWARE

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IN WITNESS THEREOF, the Parties hereto have caused this Agreement to be duly executed as of the date and year first above written.

VENDOR

Delaware Department of Education

\_\_\_\_\_  
(Official of VENDOR)  
Project Manager

\_\_\_\_\_  
Associate Secretary, Date  
Operations Support (or Designee)

\_\_\_\_\_  
Date

\_\_\_\_\_  
Finance Director Initials

\_\_\_\_\_  
(Official of VENDOR)  
Principal Investigator

\_\_\_\_\_  
Team Associate Secretary Date

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

\_\_\_\_\_  
Work Group Director  
Initials

**ATTACHMENT 9**

**Cyber Responsibilities, Liability and Insurance**

**A. Vendor Protection of Customer Data**

1. The awarded vendor shall, at a minimum, comply with all Delaware Department of Technology and Information (DTI) security standards identified in this Request for Proposals and any resultant contract(s).

**B. Definitions**

**Data Breach**

1. In general the term “data breach” means a compromise of the security, confidentiality, or integrity of, or the loss of, computerized data for the State of Delaware that results in, or there is a reasonable basis to conclude has resulted in :
  1. 1 The unauthorized acquisition of personally identifiable information (PII); or
  1. 2 Access to PII that is for an unauthorized purpose, or in excess of authorization,
2. Exclusion
  - 2.1 The term “data breach” does not include any investigative, protective, or intelligence activity of a law enforcement agency of the United States, a State, or a political subdivision of a State, or of an intelligence agency of the United States.

**Personally Identifiable Information (PII)**

1. Information or data, alone or in combination that identifies or authenticates a particular individual.
  1. 1 Such information or data may include, without limitation, Name, Date of birth, Full address (e.g. house number, city, state, and/or zip code), Phone Number, Passwords, PINs, Federal or state tax information, Biometric data, Unique identification numbers (e.g. driver's license number, social security number, credit or debit account numbers, medical records numbers), Criminal history, Citizenship status, Medical information, Financial Information, Usernames, Answers to security questions or other personal identifiers.
2. Information or data that meets the definition ascribed to the term “Personal Information” under §6809(4) of the Gramm-Leach-Bliley Act or other applicable law of the State of Delaware.

**Customer Data**

1. All data including all text, sound, software, or image files provided to vendor by, or on behalf of, Delaware which is occasioned by or arises out of the operations, obligations, and responsibilities set forth in this contract.

**Security Incident**

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Department of Education

1. Any unauthorized access to any Customer Data maintained, stored, or transmitted by Delaware or a third party on behalf of Delaware.

**C. Responsibilities of Vendor in the Event of a Data Breach**

1. Vendor shall notify State of Delaware, Department of Technology and Information (DTI) and State of Delaware Department of Education (DDOE) without unreasonable delay when the vendor confirms a data breach. Such notification is to include the nature of the breach, the number of records potentially affected, and the specific data potentially affected.
  1. 1 Should the State of Delaware or the awarded vendor determine that a data breach has actually occurred; the awarded vendor will immediately take all reasonable and necessary means to mitigate any injury or damage which may arise out of the data breach and shall implement corrective action as determined appropriate by vendor, DTI, and DDOE.
  1. 2 Should any corrective action resultant from Section B.1.1. above include restricted, altered, or severed access to electronic data; final approval of the corrective action shall reside with DTI.
  1. 3 In the event of an emergency the awarded vendor may take reasonable corrective action to address the emergency. In such instances the corrective action will not be considered final until approved by DTI.
  1. 4 For any record confirmed to have been breached whether such breach was discovered by the awarded vendor, the State, or any other entity and notwithstanding the definition of personally identifiable information as set forth at 6 *Del. C. § 12B-101* the awarded vendor shall:
    - 1.4.1. Notify in a form acceptable to the State, any affected individual as may be required by 6 *Del. C. § 12B-101* of the Delaware Code.
    - 1.4.2. Provide a preliminary written report detailing the nature, extent, and root cause of any such data breach no later than two (2) business days following notice of such a breach.
    - 1.4.3. Meet and confer with representatives of DTI and DDOE regarding required remedial action in relation to any such data breach without unreasonable delay.
    - 1.4.4. Bear all costs associated with the investigation, response and recovery from the breach, such as 3-year credit monitoring services, mailing costs, website, and toll free telephone call center services.

**D. No Limitation of Liability for Certain Data Breaches**

1. Covered Data Loss
  1. 1 The loss of Customer Data that is not (1) Attributable to the instructions, acts or omissions of Delaware or its users or (2) Within the published recovery point objective for the Services

2. Covered Disclosure

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Department of Education

2.1 The disclosure of Customer Data as a result of a successful Security Incident.

3. Notwithstanding any other provision of this contract, there shall be no monetary limitation of vendor's liability for the vendor's breach of its obligations under this contract which proximately causes a (1) Covered Data Loss or (2) Covered Disclosure, where such Covered Data Loss or Covered Disclosure results in any unauthorized public dissemination of PII.

**E. Cyber Liability Insurance**

1. An awarded vendor unable to meet the DTI Cloud and Offsite Hosting Policy requirement of encrypting PII at rest shall, **prior to execution of a contract**, present a valid certificate of cyber liability insurance at the levels indicated below. Further, the awarded vendor shall ensure the insurance remains valid for the entire term of the contract, inclusive of any term extension(s).
2. Levels of cyber liability insurance required are based on the number of PII records anticipated to be housed within the solution at any given point in the term of the contract. The level applicable to this contract is: level \_\_\_\_\_. Should the actual number of PII records exceed the anticipated number, it is the vendor's responsibility to ensure that sufficient coverage is obtained (see table below). In the event that vendor fails to obtain sufficient coverage, vendor shall be liable to cover damages up to the required coverage amount.

Level	Number of PII records	Level of cyber liability insurance required (occurrence = data breach)
1	1-10,000	\$2,000,000 per occurrence
2	10,001 – 50,000	\$3,000,000 per occurrence
3	50,001 – 100,000	\$4,000,000 per occurrence
4	100,001 – 500,000	\$15,000,000 per occurrence
5	500,001 – 1,000,000	\$30,000,000 per occurrence
6	1,000,001 – 10,000,000	\$100,000,000 per occurrence

**F. Compliance**

1. The awarded vendor(s) is required to comply with applicable security-related Federal, State, and Local laws.

**G. Media Notice**

1. No media notice may be issued without the approval of the State.

**H. Points of Contact – Data Breach**

1. State of Delaware  
Department of Technology and Information  
Solomon Adote, CSO  
Office of the Chief Security Officer  
Solomon.adote@delaware.gov  
302-739-9629

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Department of Education  
Dwayne Hill  
Director of Technology Resources & Data Development  
Patches.hill@doe.k12.de.us  
302-735-4140

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Department of Education

Attachment 10



STATE OF DELAWARE  
DEPARTMENT OF TECHNOLOGY AND INFORMATION  
801 Silver Lake Blvd., Dover, Delaware 19904

**DELAWARE DATA USAGE TERMS AND CONDITIONS AGREEMENT**

*PUBLIC AND NON-PUBLIC DATA OWNED BY THE STATE OF DELAWARE*

Contract/Agreement #/name \_\_\_\_\_, Appendix \_\_\_\_\_

between State of Delaware and \_\_\_\_\_ dated \_\_\_\_\_

	Public Data	Non Public Data		DATA USAGE (DU) TERMS
DU1	✓	✓	Data Ownership	The State of Delaware shall own all right, title and interest in its data that is related to the services provided by this contract. The PROVIDER shall not access State of Delaware user accounts, or State of Delaware data, except (i) in the course of data center operations, (ii) response to service or technical issues, (iii) as required by the express terms of this contract, or (iv) at State of Delaware's written request. All information obtained or generated by the PROVIDER under this contract shall become and remain property of the State of Delaware.
DU2	✓	✓	Data Usage	<p>PROVIDER shall comply with the following conditions. At no time will any information, belonging to or intended for the State of Delaware, be copied, disclosed, or retained by PROVIDER or any party related to PROVIDER for subsequent use in any transaction. The PROVIDER will take reasonable steps to limit the use of, or disclosure of, and requests for, confidential State data to the minimum necessary to accomplish the intended purpose under this agreement. PROVIDER may not use any information collected in connection with the service issued from this proposal for any purpose other than fulfilling the service. Protection of Personally Identifiable Information (PII, as defined in the State's <i>Terms &amp; Conditions Governing Cloud Services</i> policy), privacy, and sensitive data shall be an integral part of the business activities of the PROVIDER to ensure that there is no inappropriate or unauthorized use of State of Delaware information at any time. The PROVIDER shall safeguard the confidentiality, integrity, and availability of State information.</p> <p>Only duly authorized PROVIDER staff will have access to the State of Delaware data and may be required to obtain security clearance from the State. No party related to the PROVIDER may retain any data for subsequent use in any transaction that has not been expressly authorized by the State of Delaware.</p>

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STATE OF DELAWARE  
DEPARTMENT OF TECHNOLOGY AND INFORMATION  
801 Silver Lake Blvd., Dover, Delaware 19904

**DELAWARE DATA USAGE TERMS AND CONDITIONS AGREEMENT**

*PUBLIC AND NON-PUBLIC DATA OWNED BY THE STATE OF DELAWARE*

Contract/Agreement #/name \_\_\_\_\_, Appendix \_\_\_\_\_

between State of Delaware and \_\_\_\_\_ dated \_\_\_\_\_

	Public Data	Non Public Data		DATA USAGE (DU) TERMS
DU3	✓	✓	<b>Termination and Suspension of Service</b>	<p>In the event of termination of the contract, the PROVIDER shall implement an orderly return (in CSV or XML or another mutually agreeable format), or shall guarantee secure disposal of State of Delaware data.</p> <p><i>Suspension of services:</i> During any period of suspension or contract negotiation or disputes, the PROVIDER shall not take any action to intentionally alter, erase, or otherwise render inaccessible any State of Delaware data.</p> <p><i>Termination of any services or agreement in entirety:</i> In the event of termination of any services or agreement in entirety, the PROVIDER shall not take any action to intentionally alter, erase, or otherwise render inaccessible any State of Delaware data for a period of 90 days after the effective date of the termination. Within this 90-day timeframe, vendor will continue to secure and back up State of Delaware data covered under the contract. After such 90-day period, the PROVIDER shall have no obligation to maintain or provide any State of Delaware data. Thereafter, unless legally prohibited, the PROVIDER shall dispose securely of all State of Delaware data in its systems or otherwise in its possession or control, as specified herein.</p> <p>Post-Termination Assistance: The State of Delaware shall be entitled to any post-termination assistance generally made available with respect to the Services unless a unique data retrieval arrangement has been established as part of the Service Level Agreement.</p>
DU4		✓	<b>Data Disposition</b>	<p>At the end of this engagement, PROVIDER will account for and return all State data in all of its forms, disk, CD / DVD, tape, paper, for example. At no time shall any data or processes that either belong to or are intended for the use of State of Delaware or its officers, agents, or employees, be copied, disclosed, or retained by the PROVIDER.</p> <p>When required by the State of Delaware, the PROVIDER shall destroy all requested data in all of its forms (e.g., disk, CD/DVD, backup tape, paper). Data shall be permanently deleted, and shall not be recoverable, in accordance with National Institute of Standards and Technology (NIST) approved methods. The PROVIDER shall provide written <a href="#">certificates of destruction</a> to the State of Delaware.</p>

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STATE OF DELAWARE  
DEPARTMENT OF TECHNOLOGY AND INFORMATION  
801 Silver Lake Blvd., Dover, Delaware 19904

**DELAWARE DATA USAGE TERMS AND CONDITIONS AGREEMENT**

*PUBLIC AND NON-PUBLIC DATA OWNED BY THE STATE OF DELAWARE*

Contract/Agreement #/name \_\_\_\_\_, Appendix \_\_\_\_\_

between State of Delaware and \_\_\_\_\_ dated \_\_\_\_\_

	Public Data	Non Public Data		DATA USAGE (DU) TERMS
DU5		✓	<b>Data Location</b>	The PROVIDER shall not store, process, or transfer any non-public State of Delaware data outside of the United States, including for back-up and disaster recovery purposes. The PROVIDER may permit its personnel and subcontractors offshore access to the data, as long as the data remains onshore.
DU6		✓	<b>Breach Notification and Recovery</b>	The PROVIDER must notify the State of Delaware immediately of any incident resulting in the destruction, loss, unauthorized disclosure, or alteration of State of Delaware data. If data is not encrypted (see DU7, below), Delaware Code (6 Del. C. §12B-100 et seq.) requires public breach notification of any incident resulting in the loss or unauthorized disclosure of Delawareans' Personally Identifiable Information (PII, as defined in Delaware's <i>Terms and Conditions Governing Cloud Services</i> policy) by PROVIDER or its subcontractors. The PROVIDER will provide notification to persons whose information was breached without unreasonable delay but not later than 60 days after determination of the breach, except 1) when a shorter time is required under federal law; 2) when law enforcement requests a delay; 3) reasonable diligence did not identify certain residents, in which case notice will be delivered as soon as practicable. All such communication shall be coordinated with the State of Delaware. Should the PROVIDER or its contractors be liable for the breach, the PROVIDER shall bear all costs associated with investigation, response, and recovery from the breach. This includes, but is not limited to, credit monitoring services with a term of at least three (3) years, mailing costs, website, and toll-free telephone call center services. The State of Delaware shall not agree to any limitation on liability that relieves the PROVIDER or its subcontractors from its own negligence, or to the extent that it creates an obligation on the part of the State to hold a PROVIDER harmless.

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STATE OF DELAWARE  
DEPARTMENT OF TECHNOLOGY AND INFORMATION  
801 Silver Lake Blvd., Dover, Delaware 19904

**DELAWARE DATA USAGE TERMS AND CONDITIONS AGREEMENT**

*PUBLIC AND NON-PUBLIC DATA OWNED BY THE STATE OF DELAWARE*

Contract/Agreement #/name \_\_\_\_\_, Appendix \_\_\_\_\_

between State of Delaware and \_\_\_\_\_ dated \_\_\_\_\_

	Public Data	Non Public Data		DATA USAGE (DU) TERMS
DU7		✓	Data Encryption	The PROVIDER shall encrypt all non-public data in transit, regardless of transit mechanism. For engagements where the PROVIDER stores Personally Identifiable Information (PII) or other sensitive, confidential information, it shall encrypt this non-public data at rest. The PROVIDER's encryption shall meet validated cryptography standards as specified by the National Institute of Standards and Technology in FIPS140-2 and subsequent security requirements guidelines. The PROVIDER and State of Delaware will negotiate mutually acceptable key location and key management details. Should the PROVIDER not be able to provide encryption at rest, it must maintain cyber security liability insurance coverage for the duration of the contract. Coverage must meet the State of Delaware's standard in accordance with the <i>Terms and Conditions Governing Cloud Services</i> policy.

I) The terms of this Agreement shall be incorporated into the aforementioned contract. Any conflict between this Agreement and the aforementioned contract shall be resolved by giving priority to this Agreement. By signing this Agreement, the PROVIDER agrees to abide by the following applicable Terms and Conditions [check one]:

FOR OFFICIAL USE ONLY ☐ DU 1 - DU 3 (Public Data Only) OR ☐ DU 1 - DU 7 (Non-public Data)

PROVIDER Name/Address (*print*): \_\_\_\_\_


\_\_\_\_\_  
\_\_\_\_\_

PROVIDER Authorizing Official Name (*print*): \_\_\_\_\_

PROVIDER Authorizing Official Signature: \_\_\_\_\_ Date: \_\_\_\_\_

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Attachment 11

	<p>STATE OF DELAWARE DEPARTMENT OF TECHNOLOGY AND INFORMATION 801 Silver Lake Blvd., Dover, Delaware 19904</p>
<p><b>DELAWARE CLOUD SERVICES TERMS AND CONDITIONS AGREEMENT</b></p> <p><i>PUBLIC AND NON-PUBLIC DATA OWNED BY THE STATE OF DELAWARE</i></p>	

XaaS Contract # \_\_\_\_\_, Appendix \_\_\_\_\_  
between State of Delaware and \_\_\_\_\_ dated \_\_\_\_\_

	Public Data	Non Public Data	Cloud Services (CS) Terms
			<b>PROVIDER must satisfy Clause CS1-A OR Clauses CS1-B and CS1-C, AND Clause CS4 for all engagements involving non-public data.</b> <b>Clause CS2 is mandatory for all engagements involving non-public data.</b> <b>Clause CS3 is only mandatory for SaaS or PaaS engagements involving non-public data.</b>
CS1-A		✓	<b>Security Standard Compliance Certifications:</b> The PROVIDER shall meet, and provide proof of, one or more of the following Security Certifications. <ul style="list-style-type: none"> <li>CSA STAR – Cloud Security Alliance – Security, Trust &amp; Assurance Registry (Level Two or higher)</li> <li>FedRAMP - Federal Risk and Authorization Management Program</li> </ul>
CS1-B		✓	<b>Background Checks:</b> The PROVIDER must warrant that they will only assign employees and subcontractors who have passed a state-approved criminal background checks. The background checks must demonstrate that staff, including subcontractors, utilized to fulfill the obligations of the contract, have no convictions, pending criminal charges, or civil suits related to any crime of dishonesty. This includes but is not limited to criminal fraud, or any conviction for any felony or misdemeanor offense for which incarceration for a minimum of 1 year is an authorized penalty. The PROVIDER shall promote and maintain an awareness of the importance of securing the State's information among the Service Provider's employees and agents. Failure to obtain and maintain all required criminal history may be deemed a material breach of the contract and grounds for immediate termination and denial of further work with the State of Delaware.
CS1-C		✓	<b>Sub-contractor Flowdown:</b> The PROVIDER shall be responsible for ensuring its subcontractors' compliance with the security requirements stated herein.
CS2		✓	<b>Breach Notification and Recovery:</b> The PROVIDER must notify the State of Delaware immediately of any incident resulting in the destruction, loss, unauthorized disclosure, or alteration of State of Delaware data. If data is not encrypted (see CS3, below), Delaware Code (6 Del. C. §12B-100 et seq.) requires public breach notification of any incident resulting in the loss or unauthorized disclosure of Delawareans' Personally Identifiable Information (PII, as defined in Delaware's <i>Terms and Conditions Governing Cloud Services</i> policy) by PROVIDER or its subcontractors. The PROVIDER will provide notification to persons whose information was breached without unreasonable delay but not later than 60 days after determination of the breach, except 1) when a shorter time is required under federal law; 2) when law enforcement requests a delay; 3) reasonable diligence did not identify certain residents, in which case notice will be delivered as soon as practicable. All such communication shall be coordinated with the State of Delaware. Should the PROVIDER or its contractors be liable for the breach, the PROVIDER shall bear all costs associated with investigation, response, and recovery from the breach. This includes, but is not limited to, credit monitoring services with a term of at least three (3) years, mailing costs, website, and toll-free telephone call center services. The State of Delaware shall not agree to any limitation on liability that relieves the PROVIDER or its subcontractors from its own negligence, or to the extent that it creates an obligation on the part of the State to hold a PROVIDER harmless.

STATE OF DELAWARE  
Department of Education



STATE OF DELAWARE  
DEPARTMENT OF TECHNOLOGY AND INFORMATION  
801 Silver Lake Blvd., Dover, Delaware 19904

**DELAWARE CLOUD SERVICES TERMS AND CONDITIONS AGREEMENT**

**PUBLIC AND NON-PUBLIC DATA OWNED BY THE STATE OF DELAWARE**

XaaS Contract # \_\_\_\_\_, Appendix \_\_\_\_\_

between State of Delaware and \_\_\_\_\_ dated \_\_\_\_\_

	Public Data	Non Public Data	Cloud Services (CS) Terms
			<b>PROVIDER must satisfy Clause CS1-A OR Clauses CS1-B and CS1-C, AND Clause CS4 for all engagements involving non-public data.</b> <b>Clause CS2 is mandatory for all engagements involving non-public data.</b> <b>Clause CS3 is only mandatory for SaaS or PaaS engagements involving non-public data.</b>
<b>CS3</b>		✓	<b>Data Encryption:</b> The PROVIDER shall encrypt all non-public data in transit, regardless of transit mechanism. For engagements where the PROVIDER stores Personally Identifiable Information (PII) or other sensitive, confidential information, it shall encrypt this non-public data at rest. The PROVIDER's encryption shall meet validated cryptography standards as specified by the National Institute of Standards and Technology in FIPS140-2 and subsequent security requirements guidelines. The PROVIDER and State of Delaware will negotiate mutually acceptable key location and key management details. Should the PROVIDER not be able to provide encryption at rest, it must maintain cyber security liability insurance coverage for the duration of the contract. Coverage must meet the State of Delaware's standard in accordance with the <i>Terms and Conditions Governing Cloud Services</i> policy.
<b>CS4</b>	✓	✓	<b>Notification of Legal Requests:</b> The PROVIDER shall contact the State of Delaware upon receipt of any electronic discovery, litigation holds, discovery searches, and expert testimonies related to, or which in any way might reasonably require access to the data of the State. With regard to State of Delaware data and processes, the PROVIDER shall not respond to subpoenas, service of process, and other legal requests without first notifying the State unless prohibited by law from providing such notice.

The terms of this Agreement shall be incorporated into the aforementioned contract. Any conflict between this Agreement and the aforementioned contract shall be resolved by giving priority to this Agreement. By signing this Agreement, the PROVIDER agrees to abide by the following applicable Terms and Conditions:

FOR OFFICIAL ☐ **CS4 (Public Data)**  
USE ONLY ☐ **CS1-A and CS4 (Non-Public Data) OR** ☐ **CS1-B and CS1-C and CS4 (Non-Public Data)**  
☐ **CS2 (Non-public Data)** ☐ **CS3 (SaaS, PaaS – Non-public Data)**

PROVIDER Name/Address (print): \_\_\_\_\_

PROVIDER Authorizing Official Name (print): \_\_\_\_\_

PROVIDER Authorizing Official Signature: \_\_\_\_\_ Date: \_\_\_\_\_

## **Appendix A: MINIMUM MANDATORY SUBMISSION REQUIREMENTS**

### **1. Minimum Mandatory Submission Requirements**

Each vendor solicitation response should contain at a minimum the following information:

1. Transmittal Letter as specified on page 1 of the Request for Proposal including an Applicant's experience, if any, providing similar services.
2. The remaining vendor proposal package shall identify how the vendor proposes meeting the contract requirements and shall include pricing. Vendors are encouraged to review the Evaluation criteria identified to see how the proposals will be scored and verify that the response has sufficient documentation to support each criteria listed.
3. One (1) complete, signed and notarized copy of the non-collusion agreement (See Attachment 2). "ORIGINAL", MUST HAVE ORIGINAL SIGNATURES AND NOTARY MARK. All other copies may have reproduced or copied signatures – Form must be included.
4. One (1) completed RFP Exception form (See Attachment 3) – please check box if no information – Form must be included.
5. One (1) completed Confidentiality Form (See Attachment 4) – please check if no information is deemed confidential - Form must be included.
6. One (1) completed Business Reference form (See Attachment 5) – please provide references other than State of Delaware contacts – Form must be included.
7. One (1) complete and signed copy of the Subcontractor Information Form (See Attachment 6) for each subcontractor - only provide if applicable.
8. One (1) completed Vendor Response document in MS Excel format (See Appendix C).

The items listed above provide the basis for evaluating each vendor's proposal. Failure to provide all appropriate information may deem the submitting vendor as "non-responsive" and exclude the vendor from further consideration. If an item listed above is not applicable to your company or proposal, please make note in your submission package.

Vendors shall provide proposal packages in the following formats:

1. 4 paper copies of the vendor proposal paperwork. One (1) paper copy must be an original copy, marked "ORIGINAL" on the cover, and contain original signatures. Each paper copy must include all required documents including a price proposal.
2. 2 electronic copies of the vendor proposal saved to separate USB memory sticks. Copy of electronic price file shall be a separate file from all other files on the electronic copy.

## **Appendix B: Scope of Work and Technical Requirements**

### **1. Introduction**

#### **1.1. Intent of this Request for Proposal**

The Delaware Department of Education (DDOE or State) is seeking proposals from qualified vendors (Vendor) to supply products and services to replace the current content filtering solution used by the Delaware public education system. The replacement, which is the subject of this Request for Proposal (RFP), is referred to as the Content Filtering Solution. This procurement will be used to:

- Provide a scalable, cost-effective, subscription based content filtering and student safety solution
- Provide a content filtering solution for devices, used by students and staff, when they are both on and off the state network
- Provide monitoring and alert services for student behavior self-harm and threat detection
- Provide Internet security, threat detection, and response capability/blocking
- Provide multiple layers of reporting capability for varied audiences (ex. technicians, school staff, and families)
- Provide multi-layered access to system features
- Provide the capability to manage the solution from the Cloud

This document provides potential respondents with the information and guidelines necessary for developing their proposals.

#### **1.2. Definition of Terms**

- CIPA: Children's Internet Protection Act (<https://www.fcc.gov/consumers/guides/childrens-internet-protection-act>)
- BYOD: Bring Your Own Device
- Managed Device: Any device which is able to have end point software installed and supported and is under State/LEA control
- Unmanaged Device: Any device which is not able to have end point software installed and supported and is not under State/LEA control (ex. personal devices or other unsupported operating systems)
- Splunk: Specific tool for logging and security analytics. This is a tool the State of Delaware has invested in long-term

### **2. Project Overview**

#### **2.1. Background**

The Delaware public school system is comprised of approximately 19,000 educators, administrators and support staff, 140,849 students across 19 school districts, 23 charters, and 218 schools. The Delaware Department of Technology and Information (DTI) and the Delaware Department of Education controls an Active Directory (AD) environment which consists of a multi-domain forest with 19 different child domains provisioned for the school districts and charter schools (K12 forest). In addition, some individual districts and charters maintain their individual AD forest and/or other authentication solutions. All sites connect via a WAN to the state's data centers and then to the Internet through that connectivity.

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Today, the Content Filtering Solution provides URL category based filtering with allow list and block list functionality and safe search enforcement applied to on network devices via on premises hardware. In addition the current solution provides antivirus scanning, protocol validation, and SSL interception for selective additional inspection.

The solution is currently centrally managed. The desired solution will be centrally managed with enforcement of a base-line control with delegation to each entity for additional policy customization.

## **2.2. Future System Design Objectives**

There are a number of specific objectives that the Department would like to address as part of this project.

### **Scalability and Reliability**

The Content Filtering Solution must be reliable and highly available with the ability to add organizations and increase capacity. The application should help minimize administrative burden and the need for help desk support.

### **User Population**

The Content Filtering Solution must support all users and roles, including DDOE staff, DTI staff, district/charter technology administrators, district/charter leadership, teachers, students, and parents/guardians. The system must be flexible enough to accommodate future population groups and roles as they are identified.

### **Shared Controls**

The Content Filtering Solution must be able to provide services both on and off the state network.

### **Single Sign-On**

To the extent practical and feasible, the Department would like to only require one set of credentials for access via SSO.

### **Accessibility**

The Content Filtering Solution must meet the standards of Section 508 of the Rehabilitation Act of 1973, which includes the Web Content Accessibility Guidelines 2.0 (WCAG 2.0). Information about Section 508 is available from the GSA (<https://www.section508.gov>). Information about WCAG 2.0 is available at the W3C website. (<https://www.w3.org/TR/WCAG/>).

## **2.3. Technical Environment**

The State of Delaware K-12 Public Education technology environment is engineered and managed in a shared model cooperatively between DTI, DDOE, and the individual Districts and Charters. The core network is engineered and administered by DTI; from upstream ISP uplinks, datacenter core network, e-rate eligible WAN connectivity, all the way down to the switch port. Historically, DTI has been responsible for implementing filtering controls to maintain CIPA compliance. Today, those controls are implemented with URL filtering using proxy appliances deployed centrally in an explicit and in-line model (routed next-hop). CIPA compliance determination is determined by DDOE.

The K-12 network serves around 300 sites. Each site is connected to the two State data center locations via private TLS circuits in a hub/spoke model. Diverse Internet uplinks are located in the central datacenter locations. Remote sites access the internet through these central ISP uplinks with per district public IP

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addressing available for allocation. Current K-12 internet usage is at 20 gig for the environment, with the expectation that this will grow 50% the first school year of 100% return to in-class instruction.

Most upper level schools such as high schools and middle schools are connected to the education network via 1 GB connections. In many cases these connections run at 70-80% utilization during the day, due to educational and business traffic. Many elementary schools and charter schools are connected via 100Mb TLS circuits that are often at 50% or more utilization.

While DTI runs the core network and WAN/L2 Switching infrastructure, wireless infrastructure is implemented and managed by the individual districts/charters independently from DTI.

DTI runs a central Active Directory Forest with widespread adoption by the community, however, there are a small number of districts and charters that have opted to not participate in the K-12 AD. Even with this widespread use and adoption, there are some participating districts that have also opted to use other 3rd party platforms for authentication of students, faculty, or both (e.g. Google authentication). User accounts are administered by each district and charter.

There is no central device management architecture; each district is responsible for managing their endpoints on the network with a mix of tools in place - JAMF, GPO, and Google being the predominant platforms.

For purposes of this RFP “on network” is considered to be any end point that is connected to the K-12 education network. All other locations are considered to be “off network”. Lastly, Districts and charters need the ability to differentiate policy and services as per the needs of their environments.

### **3. Requirements and Scope of Work**

This section of the RFP provides a description of the State’s expectations for the requirements of the project and the work to be completed by the Vendor for the Content Filtering Solution Project.

Deliverables are identified in this section. If additional deliverables are produced as part of the Vendor’s standard methodology, they should be identified and described in the appropriate section of the technical response.

Expectations for the content of the Vendor response to these requirements are described throughout this section. The format of that response is addressed in Appendix A – Minimum Mandatory Submission Requirements

This section addresses a number of technical topics of importance to this project. Within this section, the structure of each topic is the same, providing:

- The requirements to be met by the Vendor in the fulfillment of this project (including a list of expected deliverables and work products);
- Background information on any work completed to date by the State, and preferences of the State with regard to the nature of the work to be performed;
- A description of the information to be provided by the Vendor in their proposal.

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**Please use Appendix C to respond to the elements listed in the two tables below.**

Category	Requirement
<b>Filtering: Categorization</b>	Categorization should accommodate PreK-12 learning needs.
	Categorization should be hierarchical in nature and have sub categorization.
	Categorization engine should be able to group categories into multiple functions (ex. games/educational).
<b>Filtering: Policy</b>	Filtering policies should be flexible. Policies should be able to be configured independently for on network and off network environments. Solution should allow for the capability for filtering to be scheduled (duration, time of day based, student vs. teacher, grade level).
	State central administration needs to be able to enforce a minimum baseline CIPA policy on district/charter policy to ensure we meet federal mandates.
	Filtering Policy should support delegation of access to districts/charters to manage their policy sub section.
	Filtering should support multiple user name sources such as Google and Active Directory for users and groups to be associated with policies in the content filtering solution. Describe the solution's mechanism used to determine what authentication source is used for a given user.
	Solution needs to support different policies for different user types and/or groups.
	Content Filtering solution needs to support detailed technical logging, logging for troubleshooting, and for auditing compliance.
	Solution needs to provide CIPA compliant content inspection for mixed content multimedia streaming sites (ex. Vimeo).
	Solution needs to support Chromebooks, Windows, Mac, IOS and Android.
	List any functional differences/limitations, such as agents or extensions, on Chromebooks, Windows, Mac, IOS and Android.
	Parental controls should apply only to off-network policies and are in addition to the base policy.
	Filtering should apply to the device while on or off the network and also apply to any network based controls while on the network.
	The solution should provide the ability to filter content within the page/site

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	(ex. Vimeo, YouTube, other platforms that serve multimedia content).
<b>Security</b>	The solution should prevent users circumventing filtering controls.
	Solution should not be browser dependent.
	The system must have the ability to delegate controls to different segments of the environment (multi-tenant environment). Be specific on how this is accomplished.
	Authentication types supported should include SAML (including ADFS), OAuth, Google, and ClassLink. Describe how the system supports multiple authentication sources.
	The solution should have the ability to detect and block proxy anonymizer services. Describe how this is accomplished.
	List URL categories and describe the categorization methodology being used. Can multiple categories be given to a specific site?
	The system should have the ability to apply custom categories and/or override a category applied to a given website. Describe how this is accomplished.
	The solution should provide for custom blocked and allowed lists applied to state, district, and school levels. Describe how this is accomplished.
	The solution should support the classification of uncategorized websites. If not, the system should allow rules to be written around uncategorized sites.
	The solution should have the ability to detect and block proxy anonymizer services. Are anonymizer services identified via signature-based techniques or simply via a list of known services and/or IP addresses? Describe how this is accomplished.
	Does the system utilize readily available domain and IP blacklists sourced from common sources in content filtering and categorization (ex. US Cert, MS-ISAC, SpamHaus, and other open source feeds)? Describe how this is accomplished.
	Does the solution provide malware protection (ex. use of an in-house or 3rd party signature engine, what 3rd party engines are supported, can multiple signature engines be run simultaneously, and CPU and performance impact). If so, describe how this is accomplished.
	The solution should support the termination and inspection of SSL traffic? Describe how this is accomplished.
	The solution should provide the flexibility to disable or enable SSL decryption for web traffic destined for sensitive categories, such as healthcare and personal banking, or specific identified domain names? Briefly describe how

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	the system supports this. Describe how this is accomplished.
	The solution should provide the following certificate inspection capabilities: expiration dates, revocation status (CRL & OCSP), common name mismatches, self-signed certificates, alternate name matches, wildcard certificate verification. Describe how this is accomplished.
	The solution should provide the ability to block untrusted certificate authorities? Does it display the reason for blocking the certificate? Describe how this is accomplished.
	The solution should support SSL Interception whitelist management. For example, is there an automated whitelist for applications and websites that can't be decrypted (hard coded client certificate, key pinning, etc.)? Describe how this is accomplished.
	The solution should detect command and control (CnC) callbacks. Describe how these callbacks can be blocked.
	The solution should enforce protocol validation to ensure communication is standard http or TLS on the respective ports. (Disable tunneling other protocols over the network on standard ports) Describe how this is accomplished.
	The solution should provide application control of web applications (for example, Skype, BitTorrent, and popular Web-based social media applications such as Facebook)? Provide a list of these applications and describe how this is accomplished.
	The solution should have the ability to control access to parts of an approved site (ex. access to channels in YouTube). Describe how this is accomplished.
	The solution should provide the ability to provide granular access control within approved categories (ex. provide access to specific Facebook sites but not all and the ability to execute specific actions on Facebook). Describe how this is accomplished.
<b>Capacity</b>	The solution should be fault tolerance and resilience across geographic locations throughout the country. Describe how this accomplished.
	The solution should be able to scale over time as the load increases. Describe how this accomplished.
	The solution should provide the ability to do Quality of Service (QoS) when on network and prioritize educational content. Describe how this is accomplished.
<b>Compatibility</b>	Solution must support the following operating systems with full functionality: IOS, Android OS, Chrome OS, Mac OS, and Windows OS. Other operating systems should be supported, detaining reduced functionality.

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<b>Management</b>	The solution should support configuration management of all areas of the platform via API, preferably with vendor created and supported Ansible Modules.
	Describe how the solution handles multi-tenancy with central and delegated administration based on organizational groupings.
	The solution should be managed through a cloud-based, browser agnostic dashboard.
<b>Bring Your Own Device (BYOD)</b>	The solution should provide an approach to filtering/monitoring/reporting BYOD devices for students, staff, and other guest users. Describe how this is accomplished.
	The solution must support filtering enforcement on unmanaged and unauthenticated endpoint devices while they are connected to on-prem networks, without requiring client proxy configuration. Please describe how this would work with your solution.
	The solution should support safe search enforcement of search engines and YouTube for unmanaged devices while on network.
	The solution should support safe search for unmanaged devices without SSL interception.
<b>Monitoring/Reporting</b>	<p>Reporting data must:</p> <ul style="list-style-type: none"> <li>* be available "live". As traffic occurs those details are recorded and available for review.</li> </ul> <p>Reporting data should be:</p> <ul style="list-style-type: none"> <li>*exportable</li> <li>*selectable based on the following filters (source IP, user initiating traffic, whether on/off network, time of day, time range, etc.)</li> <li>* provide top sites visited, separated by individual user, building and district levels.</li> </ul>
	Reporting data should be: exportable in PDF format as well as other structured data formats selectable and sortable based on the following filters (source IP, user initiating traffic, whether on/off network, time of day, time range, policy, category, etc.) provide top sites visited, separated by individual user, building and district levels.
	Solution should have pre-build reports that should include top sites, top devices, top users, etc. Functionality should allow for user-based reporting templates.
	Reporting must include the user who initiated the network traffic (if authenticated), and should include source IP and other device details.
	Is the solution able to capture true internal source IP addresses? If not, what other mechanism is available to identify the internal source for the connection for managed and unmanaged devices?
	Reporting must include whether the network activity occurred while on or off network.

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	Individual(s) alerted must be customizable based on what policy was violated. Alerts must be configurable for various categories, such as pornography, suicide/self-harm, and other categories. Alerts must also be customizable by Districts/Charters.
	Data must be retained for 13 months.
	The system should support export of network/technology security events to Splunk, preferably via HTTP API call (ex. badly behaving hosts trying to access malware dropper websites should populate a queue that is ingested by Splunk).
	Reporting and Monitoring should be compartmentalized by district/charter.
	Reporting should provide for an "end user behavior" or a non-technical view of log data (user browsed these sites), as well as a forensic detail view of all http(s) communication (all connections, not just the main site that was accessed).
	<p>The solution should offer student safety/self-harm protection (inclusive of but not limited to):</p> <ul style="list-style-type: none"> <li>* communication processes for school district staff when student safety triggers occur</li> <li>* communication with law enforcement</li> <li>* communication with parents</li> <li>* variation of response based on trigger/risk level</li> <li>* systems that are actively monitored including any limitations</li> <li>* live review of alerts and who is responsible for the review</li> <li>* ability to flag student and school safety concerns (ex. potential school attack)</li> </ul> <p>Describe how this is accomplished.</p>
	The solution should have a process for avoiding false positives in regards to self-harm and what tuning is available to prevent false alerts. Describe how this is accomplished.
	Self-harm alerting must be compartmentalized by district/charter.
	Self-harm alerts should be able to be configured per district/charter.
	Self-harm alerts should be able to be disabled for specific administrative users (i.e. don't alert sysadmin of self-harm events, only alert a notification group).
<b>Teachers/Staff</b>	Districts should be able to customize the ability for teachers/staff to override specific websites in allowed configured/blocked categories during a specific session or time-frame.
	The solution should provide logging of any temporary override.

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	The solution should provide alerts in the event of temporary override.
	The solution should provide the ability to integrate with SIS and/or LMS.
	The solution should provide the ability for teachers to simulate student policy.
	The solution should provide the ability to apply differentiated policies by user groups.
<b>Students</b>	When traffic is blocked the vendor must be identified including contact details to address misidentification. The policy and category that blocked the action must be identified.
	The solution should allow for custom messaging to be applied to blocked pages.
	Districts/charters should have the option to allow or deny users to challenge miscategorization of their content.
	Vendors should support recategorization requests via publicly available web form or other contact.
<b>Parents/Guardians</b>	The solution should allow for parents/guardians to make policies more restrictive and get reports on student activity.
	The solution's parent/guardian portal should allow for the ability to control off-site filtering.
	The solution's parent/guardian feature support must not impact district/charter helpdesk.
	The solution's parent/guardian feature must support self-service for password resets.
	The solution's parent/guardian account creation should be automatable through Student Information System (eSchool).
	The solution should allow for an automated process for linking parent/guardian accounts with appropriate student accounts.
	The solution's parent/guardian features must allow for restrictions in addition to district/charter settings based on location of the device, school days, and time-frames.
	Districts/charters should be able to configure parent/guardian reporting criteria for any parent/guardian reports.
	Districts/charters should be able to override parent restrictions on an as-needed basis.
	The solution should provide the ability for district/charters to customize information included in the parent summary of daily student activity.

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	The solution should provide the ability for districts/charters to customize parent notification of bullying, self-harm, school violence, etc. event flags.
	Acknowledgement of any alerts sent to and received by parents must be logged.
<b>Support</b>	Describe your support model.
	The support model should include the assignment of point personnel who have knowledge of our environment and who can provide individualized support? Describe how this is accomplished.
	The support model should provide the ability to support end users (ex. parent portal). Describe how this is accomplished.
	The solution should provide a toolset to analyze and troubleshoot connectivity and presentation issues. Describe how this is accomplished.
	Your solution should have the capability to diagnose, test, and resolve issues with specific websites or web applications with minimal involvement from the state of DE. Describe how this is accomplished
	The solution should provide a causal analysis for issue resolution.

Category	Information Required
<b>Filtering: Categorization</b>	Describe the solution's methodology for categorization. Include a rationale for this methodology.
<b>Filtering: Policy</b>	Describe what filtering occurs beyond a vendor's safe search/restricted mode.
	Describe how the solution determines whether a device is on network or off network.
<b>Security</b>	Describe who has access to users' content filtering data and where those users are located.
	Describe where the data is stored.
	Describe how the system ensures unauthorized parties do not have access to the data. Describe who is authorized to access the data.
	Describe your data breach policy including notification practices.
	Describe how you identify and handle unidentifiable devices.

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	Describe how you control and handle unknown and unmanaged devices (ex. Internet Of Things devices) located within the internal customer network source device fingerprinting.
	Describe how the system enforces controls on managed and unmanaged endpoints (ex. IP address of a host using HOST files).
	How does the system prevent users from circumventing the system's controls?
	Describe any content that the system cannot deep filter.
	Describe the level of granularity, in administrative security permissions, that the system can accommodate (ex. reporting only access).
	Describe how the system supports multiple authentication directory stores simultaneously.
	Describe how you maintain the integrity of the authenticated user's identity.
	Describe the system's ability to dynamically classify an uncategorized site while a user is browsing (ex. "sports," "news" or other). Include any machine learning/AI capabilities.
	Describe the system's threat intelligence and threat research processes and capabilities (including emerging threats).
	Describe the system's look-up tool for determining a site's category?
	Describe the solution's ability to categorize non-English and translation websites.
	Describe how the system uses common techniques to establish websites' categorization. For example: domain name registration details, reputation of links to other sites, country of origin, generated domain name vs. human readable, and IP reputation.
	Does the solution include static analysis of Web content (sometimes known as browser code emulation), and reputation-based analysis?
	Describe your preferred approach for supporting off-network devices (Windows, iOS, Mac, Chrome OS, and Android). Describe traffic redirection or flow and authentication processes.
	Briefly describe other approaches for supporting off-network devices (Windows, iOS, Mac, Chrome OS, and Android).
	If the solution includes a hardware component, describe the performance impact of decrypting and inspecting SSL traffic.
	Does your solution support HTTP 2? How does your solution handle QUIC?

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	Is Advanced Threat Detection functionality integrated as a feature of your SWG or does it require a separate component? If a separate component is required, is detection performed on-premises or in the cloud?
	Does your company own the core Advanced Threat Detection technology, or is it licensed from an OEM provider? (Please specify the partner.)
	Briefly describe the integration between the SWG and the Advanced Threat Detection functions. For example, does the SWG place objects in a sandbox environment? Does the SWG forward network traffic to an Advanced Threat Detection appliance for further analysis? Is a separate console required for Advanced Threat Detection functionality, or does an integrated console represent both SWG and Advanced Threat Detection functions?
	Describe the solution's capability to analyze files for zero day and delayed execution malware. Does the solution include sandbox functionality or do you integrate with a 3rd party sandbox?
	List the operating systems and versions that can be simulated in the sandbox.
	Is the sandbox environment based on emulation or virtualization? If based on virtualization, which hypervisor technology is your solution built upon?
	List the types of objects that can be analyzed (for example: PDF, EXE and DLL, Office and ZIP, Flash, JavaScript, HTML, others).
	Briefly describe the scalability of the sandbox environment. For example, how many objects per hour can be analyzed in the sandbox?
	Do you allow administrators to provide their own "gold image" (custom image) for the sandbox?
	Briefly describe the techniques used to analyze network traffic for intrusion detection or prevention.
	Does the solution support DLP on SSL intercepted traffic and on HTTP2 traffic?
	Describe the solutions support of enforcement of controls, including DLP, to communication using the QUIC protocol?
	If your DLP capability requires a 3rd party solution please describe how you integrate with that 3rd party solution (for example, via the Internet Content Adaptation Protocol [ICAP]).
	Describe the performance impact of DLP processing in your solution.
	Describe the solution's ability to assess the connected device's health to include patch level and state of anti-malware solution.
Describe the solution's ability to adapt policies based on device health.	

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	Describe the solution's ability to apply policy based on recommendations from a network admission/access control system.
<b>Capacity</b>	Describe any on-premises components that may be included in the solution.
	Describe the performance impacts of enabling content filter inspection in addition to URL or domain filtering.
	Describe scalability differences between on premises and off premises filtering.
	Describe the system's ability to support load bursts.
	Describe the system's capability to minimize bandwidth utilization (ex. content caching, packet deduplication)
	Describe how the system identifies and handles unknown devices. Please be specific.
	Delaware currently has approximately 1,100,000 concurrent sessions. Describe your ability to handle concurrent sessions.
	How will the system manage a fully saturated 40 gig internet connection?
<b>Bandwidth Management</b>	Describe the solutions' ability to prioritize specific users based on directory system group membership and location.
	Describe the solution's ability to manage quotas and/or prioritize traffic based on web applications or on website domains.
<b>Compatibility</b>	List any requirements for a device to be considered supported (agents, extensions, etc.)
	List any limitations of supported devices.
	Detail any limitations if client components are not installed on the device.
	List any devices or operating systems that are not fully supported.
	Describe shifts in functionality and support for managed/unmanaged assets, managed/unmanaged users.
	Does the solution have any unique needs/requirements for network configurations or network restrictions (ex. restricted outbound communications from user endpoints)?
	Define what a fully supported device means.
<b>Bring Your Own Device (BYOD)</b>	Describe how the solution validates/identifies guest users (ex. self-service registration, email validation, SMS validation, CSV upload, manual validation).

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	What functionality do we lose without using certificates or requiring proxy/endpoint configuration?
	Describe how the solution provides access to unmanaged users and unmanaged devices.
<b>Monitoring/Reporting</b>	Provide any detailed requirements for reporting details to be recorded. For instance, what agents are required to capture data and what is recorded for devices without agents?
	Describe the solution's offering for activity reports for varied user types (ex. guardians, teachers, administrators), as well as alerts for any policy violations as they occur.
<b>Support</b>	Describe your expected Service Level Agreement model for different types and priorities of issues.
	Describe your ability to support multiple languages when providing support.
	Describe your escalation process for critical issues.
	Describe your release cycle for both bug fixes, security issues, as well as for security updates.
	Describe your strategy for capturing feedback and implementing requests for changes/enhancements by clients.
<b>Project</b>	The proposal must describe the Vendor's philosophy, methodology, and approach to this project and to project management.
	Vendors and their subcontractors shall describe the proposed management structure and identify key personnel who will be assigned to this project.
	The technical proposal must describe the Vendor's knowledge transfer philosophy, the approach that will be used in the project, and provide a discussion of how this approach will ensure that State staff and school districts/charters will be able to take ownership and continue the project from implementation through future expansions.
	The technical proposal must describe the authorization and authentication alternatives available with their solution.

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	<p>The technical proposal must describe the extent to which the proposed solution is on-premises or cloud-based, discuss the strengths and weaknesses of their approach, and describe how the solution will be made redundant and highly available. Any proposed solution must comply with State standards and policies as they relate to our Cloud Services and State Data Usage policies found at <a href="https://dti.delaware.gov/information/standards-policies.shtml">https://dti.delaware.gov/information/standards-policies.shtml</a>.</p>
	<p>The technical proposal must identify if the proposed solution supports mass loading of accounts and describe how this could work in the DDOE environment.</p>
	<p>The technical proposal must describe the reporting and ad-hoc query functionality of the proposed system and discuss how new reports are created and existing reports modified.</p>
	<p>The technical proposal must describe the approach and technology used within the proposed solution to enable integration with external systems.</p>

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## Appendix C: Vendor Response Document

Complete and submit the Excel file pictured here. Please note there are 2 spreadsheets to complete in the workbook. **Be sure to complete both tabs.**

Category	Requirement	Response
Filtering: Categorization	Categorization should accommodate PreK-12 learning needs.	
	Categorization should be hierarchical in nature and have sub categorization.	
	Categorization engine should be able to group categories into multiple functions (ex. games/educational).	
Filtering: Policy	Filtering policies should be flexible. Policies should be able to be configured independently for on network and off network environments. Solution should allow for the capability for filtering to be scheduled (duration, time of day based, student vs. teacher, grade level).	
	State central administration needs to be able to enforce a minimum baseline CIPA policy on district/charter policy to ensure we meet federal mandates.	
	Filtering Policy should support delegation of access to districts/charters to manage their policy sub section.	
	Filtering should support multiple user name sources such as Google and Active Directory for users and groups to be associated with policies in the content filtering solution. Describe the solution's mechanism used to determine what authentication source is used for a given user.	
	Solution needs to support different policies for different user types and/or groups.	
	Content Filtering solution needs to support detailed technical logging, logging for troubleshooting, and for auditing compliance.	
	Solution needs to provide CIPA compliant content inspection for mixed content multimedia streaming sites	

Category	Information Required	Response
Filtering: Categorization	Describe the solution's methodology for categorization. Include a rationale for this methodology.	
Filtering: Policy	Describe what filtering occurs beyond a vendor's safe search/restricted mode.	
	Describe how the solution determines whether a device is on network or off network.	
	Describe who has access to users' content filtering data and where those users are located.	
	Describe where the data is stored.	
	Describe how the system ensures unauthorized parties do not have access to the data. Describe who is authorized to access the data.	
	Describe your data breach policy including notification practices.	
	Describe how you identify and handle unidentified devices.	
	Describe how you control and handle unknown and unmanaged devices (ex. Internet Of Things devices) located within the internal customer network source device fingerprinting.	
	Describe how the system enforces controls on managed and unmanaged endpoints (ex. IP address of a host using HOST files)	
	How does the system prevent users from circumventing the system's controls?	
	Describe any content that the system cannot deep filter	
	Describe the level of granularity, in administrative security permissions, that the system can accommodate (ex. reporting only access)	
	Describe how the system supports multiple authentication	